L500
T71
1964
no.4

CALIFORNIA LEGISLATURE

SENATE TRANSPORTATION AND PUBLIC UTILITIES COMMITTEE

RANDOLPH COLLIER, CHAIRMAN

ASSEMBLY TRANSPORTATION AND COMMERCE COMMITTEE

TOM CARRELL, CHAIRMAN

TRANSCRIPT OF PROCEEDINGS

INTRASTATE AIR CARRIERS IN CALIFORNIA AVIATION

ROLE AND FUNCTIONS OF THE CIVIL AERONAUTICS BOARD

July 30, 1964 — Los Angeles

October 2, 1964 — San Francisco

NOTE: Additional copies of this transcript are available at the Senate Committee Office, Room 3048, State Capitol, Sacramento, California, 95814 (Tel: Area Code 916, 445-4641).

CALIFORNIA STATE LIBRARY
NOV 19 1965
GOVERNMENT PUBLICATIONS BP

INDEX OF WITNESSES

I. INTRASTATE AIR CARRIERS IN CALIFORNIA AVIATION

JOHN W. McINNIS - Vice-President and Secretary, Pacific Southwest Airlines - Pages 1-22, 24-28, 54

J. FLOYD ANDREWS - President, Pacific Southwest Airlines - Pages 17, 22-23

LAWRENCE A. MUDGETT - President of Trans California Airlines Pages 29-34

RICHARD T. MAUS - President of California Airlines - Page 35

LES COHEN - Director, Governmental Affairs, California State Colleges - Page 35-41

ALBERT L. BUTLER - Chief of the Air Carrier Branch, Flight Standards Division of The Federal Aviation Agency, Western Region - Page 42-50, 53-54

NED ZARTMAN - Regional Counsel, Federal Aviation Agency - Pages 50-52

FREDERICK B. HOLOBOFF - President, California Public Utilities Commission - Pages 54-67

DALE FEARN - Airport Manager, San Diego International Airport Page 67-70, 73-75

GEORGE McSHERRY - Assistant General Manager, Los Angeles Department of Airports - Pages 70-74

II. ROLE AND FUNCTIONS OF THE CIVIL AERONAUTICS BOARD

ALAN S. BOYD - Chairman, Civil Aeronautics Board - Pages 79-123

Senate Fact-Finding Committee on Transportation and Public Utilities	Assembly Interim Committee on Transportation and Commerce
RANDOLPH COLLIER, Chairman	TOM CARRELL, Chairman
MEMBERS	MEMBERS
Senator Carl L. Christensen, Jr.	Assemblyman Joe A. Gonsalves, Vice-Chairman
Senator Richard J. Dolwig	Assemblyman Frank P. Belotti
Senator Hugh P. Donnelly	Assemblyman Charles E. Chapel
Senator Samuel R. Geddes	Assemblyman Gordon Cologne
Senator Luther E. Gibson	Assemblyman William Dannemeyer
Senator John W. Holmdahl	Assemblyman Richard Donovan
Senator Stan Pittman	Assemblyman John F. Foran
Senator Jack Schrade	Assemblyman Joseph Kennick
Senator Alan Short	Assemblyman Frank Lanterman
Senator Vernon L. Sturgeon	Assemblyman Lester McMillan
Senator William Symons, Jr.	Assemblyman Charles Meyers
	Assemblyman Philip L. Soto
	Assemblyman Tom Waite
	Assemblyman Charles Warren
	Assemblyman Pearce Young
Helen Winslow, Secretary	Lisa Barrigan, Secretary

William Scheuermann, Consultant

July 30, 1964

Room 115
State Building
Los Angeles, California

The Role of Intrastate Air Carriers in California Aviation and Transportation

CHAIRMAN COLLIER: In previous joint hearings we received testimony on general aviation, airport management and interstate airline operations. Today's hearing, the ninth in a series of statewide meetings, will be devoted to a consideration of the role, operation and regulation of intrastate air carriers in California.

JOHN W. McINNIS, VICE-PRESIDENT AND SECRETARY, PACIFIC SOUTHWEST AIRLINES: It would seem desirable to give first a brief history of Pacific Southwest Airlines and the development of that Company in the State of California. This air carrier, commonly referred to and known as PSA, began operation in 1949 with once-a-week air flights between the cities of San Diego and Oakland in one leased DC-3 Aircraft. Over a three year period PSA acquired a total of four 31-passenger DC-3s which were operated between San Diego, Burbank, Oakland, and San Francisco. This equipment was later replaced with four 70-passenger DC-4s in 1955. The routes flown at that time were San Diego, Burbank,

Los Angeles International Airport and San Francisco International Airport. These routes have remained the same to date and are the present scheduled terminals for PSA flights. In 1959 PSA acquired four 98-passenger Super Electra-Jets built by Lockheed Aircraft of California and since that year two additional Electras have been added to the PSA fleet, bringing it to its present strength of six Super Electra-Jets.

These six Electra-Jets presently fly a schedule of 370 flights per week between the metropolitan areas of San Diego, Los Angeles, Burbank, and San Francisco. As of this date, PSA has a contract with Boeing Aircraft of Seattle, Washington, to purchase five Boeing 727 Fan Jets with an option to purchase a sixth 727. These 727 aircraft will be placed in service by PSA during the year 1965. It is the opinion of PSA and Boeing Aircraft that these are the finest jet aircraft available for the flights now being flown by PSA. The aircraft will seat 122 passengers and will reduce substantially the time in flight between the metropolitan areas now being served by PSA, as the aircraft will be a 600 m.p.h. airplane. For example, the flight time for the 727 between San Francisco and San Diego non-stop will be 51 minutes, and from Los Angeles to San Diego 17 minutes.

PSA presently employs 535 employees; it has 23 captains with 22 copilots and 22 flight engineers and 60 stewardess personnel. These flight crews are all specially trained, both by the aircraft

company that manufactures the type of aircraft being flown and by PSA flight schools with Federal Aviation Agency supervision and test flights.

By reason of the high competition among air carriers that service these metropolitan areas in California, it is necessary that PSA constantly look forward to improving its equipment, training its personnel, and giving the California citizen the best in air transportation available.

To give you a few facts with regard to PSA and its operations and its position in the airline industry of California, we would like to submit the following statistics concerning PSA:

Annual payroll	$ 3,563,750
Annual aviation fuel purchase. . . .	$ 1,828,800
Annual landing fees paid	$ 329,850
Annual airport rentals	$ 154,450
Annual PSA investment in airport facilities	$ 150,000
California Franchise Tax (1963). . .	$ 250,250
Annual use and sales taxes	$ 101,250
Annual flight equipment property taxes.	$ 135,000
Annual personal property and leasehold taxes.	$ 35,000
Sales taxes to be paid on the purchase of five 727 Jet aircraft.	$ 750,000

Annual advertising	$ 566,000
Annual insurance	$ 502,800
Annual porter fees	$ 156,000
TOTAL	$ 8,523,150

PSA presently is the Number 1 air carrier in the transportation of passengers out of Lindbergh Field at San Diego and the Burbank Airport, is Number 5 in the number of passengers being carried out of Los Angeles International Airport and is Number 2 in the number of passengers being carried out of the San Francisco International Airport.

In 1963 PSA carried 1,305,000 passengers. At present PSA is carrying an average of over 125,000 passengers per month. It is a recognized fact in the air industry that PSA now ranks as the nation's leading intrastate airline. Also, from a safety factor standpoint, PSA has the distinction in over 15 years of air operations of never experiencing a passenger fatality or injury to its passengers by way of aircraft accident.

When we started in 1949, the service and the customers were meager; we scratched for 15 years. It has only been the past few years that really has brought this market to date, and we feel that PSA made this market. You don't get passenger markets; you go out and make them. In 1949, we originated the company, leased one aircraft, went into business. We had no affiliation with the

old Southwest or old Cal-Central, or any of those carriers. This is an original operation right down the base. Prior to that, we operated one of the largest flying schools in California and the airline developed out of the flight school itself.

With this background and record, I am sure you are interested in who regulates this intrastate airline and what is being regulated. To properly present this subject, PSA's operations may be divided into two categories:

Control over aircraft, flight crews and operations in the field of supervision, inspection, safety, and flight control, including airport patterns and the filing of logs and other documents pertaining to all of these subjects.

In this field regulation and control, by Act of Congress, has been placed in the Federal Aviation Agency, and no state agency may interfere in this area which has been preempted exclusively by the Federal Government. Accordingly, this leaves one field of regulation and control for the state, and that is the economic aspects of the air carrier. In this regard, PSA is now under the control of and regulated by the Public Utilities Commission of the State of California insofar as its tariffs and rates are concerned for both passengers and freight. PSA is required to submit accounting data and information to the PUC upon request and must file all tariffs with that body and operate in accordance with those tariffs. The question of public liability insurance and property

damage in amount and type is under the control of the PUC.

It might well be asked if there is to be further regulation of the intrastate air carrier, who should be vested with this authority? PSA feels that, if there is to be further regulatory legislation in this field, it should be granted to the PUC, as that body is most familiar with transportation problems at this time and has been charged with the duty of enforcing rate structures in air travel in California as well as public liability insurance for air carriers.

The question is then posed, what regulation, if any, is desirable from the standpoint of the intrastate carrier and the air traveling public? As some of you perhaps know, PSA cooperated fully with Assemblyman Williamson and his Committee in the drafting of Assembly Bill No. 199, which as amended in the Senate June 19, 1963, appeared to contain very thoroughly considered regulatory measures that would be most beneficial to the citizens of the state, the air carrier, and the State of California itself. In AB No. 199, the intrastate carrier would receive protection by properly qualifying under the law as proposed in that Bill and then receiving from the PUC a Certificate of Convenience and Necessity for its scheduled air routes. The Bill contained many other measures which are self-explanatory and PSA whole-heartedly endorses that Assembly Bill as finally written in the Senate.

It is our position that further regulatory measures affecting intrastate airlines alone would bring hardship upon the airlines and place them in a position where they could not compete on the financial basis necessary to render the high degree of service presently in effect by PSA and its competing interstate air carriers.

I would call your attention to the fact that PSA is a non-subsidized airline, it has never received five cents from any agency of the state or federal government in support of its operations. PSA is prohibited by the CAB and the Interstation Commerce Act from the transportation of mail and from entering into interline agreements with air carriers servicing points outside the state of California for passengers or freight.

CHAIRMAN COLLIER: Why is that?

MR. McINNIS: Because if we carried freight or passengers in a continuous journey from out of the State into California, we would be in interstate commerce, which would require that we come under the CAB as distinguished from an intrastate air line.

CHAIRMAN COLLIER: If you deliver passengers to Truckee who are going on to Nevada, would you come under interstate?

MR. McINNIS: Yes, if we knowingly do so. Interestingly enough, we have a letter from U. S. Senator Bartlett who came down from Alaska and wanted to go from San Francisco to Los Angeles, announced who he was and that he was going on a through

journey. We had to turn him down. He went back to Washington to find out why and when he did, he wrote us a very fine letter and appreciated our position and realized that we are being deprived of a great substantial fund of business that isn't available to us.

ASSEMBLYMAN YOUNG: Are these same reasons the reasons you do not have a mail contract?

MR. McINNIS: That's correct. You have to be an interstate carrier to have mail contracts.

SENATOR PITTMAN: Would you feel it a disadvantage to come under the federal regulation, or are you happy where you are?

MR. McINNIS: We are happy where we are. We like California.

SENATOR PITTMAN: Mail and inter-connecting passengers don't appeal to you if you have to take the federal regulation?

MR. McINNIS: It does not for this reason: you would have to take the routes and the schedules they would hand to you. We don't feel that we should subject ourselves to all these regulations for that type of an operation.

PSA is unable to solicit business from travel agencies or passengers who are located outside the state. These limitations, you can see, restrict its source of revenues which cannot be said to be true of its competition in California by interstate airlines.

Consequently, the only manner in which PSA can expand its service within the state is to do so on its own financial strength without U. S. mail contracts or other subsidies that can be offered to encourage new service to new areas. It is PSA's position that service into many of these areas in California should be at the third level and could be worked out by appropriate assistance to these carriers in airport costs, fees and operations, as they would be carrying fewer passengers with less costly equipment. As a matter of economics, it is impossible to operate a 4½ million dollar aircraft into an area where the anticipated load factor is obviously below that required to break even. Consequently, PSA has attempted to constantly review the possibilities of expanded service in California while looking at its financial condition.

We now conduct a commuter-type, high density operation between metropolitan areas. We want to move as many people as rapidly as possible on the best equipment at the lowest possible fare consistent with high safety. We have pioneered this type of operation and have brought other carriers into line as far as a competitive fare is concerned.

I might add that PSA's present purchase of five 727 Boeing Jets will amount to 27½ million dollars, which PSA must finance without outside aid from any governmental sources and which it intends to do without equity financing. Its financial structure, accordingly, as you can well see, plays an important part in the overall

decision to expand service within this state. PSA presently and in the past has contributed to the citizens of this state by way on non-revenue charges for educational and charitable organizations. We have regularly flown the Boy Scouts - handicapped children's excursions, flights in aid of the Cancer Fund, Little League players, and other organizations, as a public service and without profit to PSA as more detailedly set forth in the attached exhibit. Our relationship, both businesswise and from the standpoint of public service being rendered to the air traveling public, at San Francisco International Airport, Los Angeles International Airport, San Diego, and Burbank, has always been and presently is on the most cordial and friendly basis with the airport managers and the regulatory bodies who operate these airports.

PSA presently has no plans, nor is it anticipated in the future, that it will merge with any other organization or airline and, as you may know, it is now a publicly owned air carrier with its common stock sold over the counter and being held by stockholders in approximately all of our fifty states. It is true that a substantial number of the stockholders are California residents and this is to be expected as PSA considers itself a unique California product and one that has now grown in stature under discreet regulation that has proven a stimulant to its growth and

where further well considered regulation may well add to its position and to the service that it now renders and expects to continue to render to the air passengers of this state.

In conclusion, it being recognized that the authority of the federal government is paramount and exclusive in the regulation and control of safety factors of aircraft, and the operation of such aircraft, and the use of air space, PSA believes that further additional regulation as considered in Assembly Bill No. 199 as sponsored by Assemblyman Williamson in the 1963 Legislature and as amended in the Senate on June 19 of that year would be beneficial to the State of California, its air traveling citizens, and the intrastate carriers. PSA believes, however, that further regulation beyond that point would be detrimental, discriminatory, and disadvantageous to the intrastate air carrier in its ever continuing competition with the interstate carriers who would not be subjected to such regulation.

PSA SERVES THE COMMUNITY

As the nation's leading intrastate airline, Pacific Southwest Airlines realizes that it indeed owes much to the citizens of the State of California. For this reason, PSA has taken a keen interest in the civic, community, and charity activities conducted by municipal centers within the state. PSA originally recognized

this need for participation in 1949, the year of its inception. One month after the airline was started, PSA offered to the youth of California tours of the airport, the Central Tower and a taxi ride in its aircraft. These tours were staffed by PSA flight personnel and the technical explanation of the use of airport facilities by air carriers was free to many groups of children throughout the years.

The following is a brief rundown of some of the activities PSA has conducted within this past year in serving these numerous activities.

YOUTH FLIGHTS

Since early last year, it is estimated that nearly 1500 youngsters have flown from San Diego to Los Angeles for a tour of the Los Angeles International Airport. Upon arrival at the Los Angeles facility, the children are met by a uniformed guide and shown that facility. The campaign was inaugurated primarily for San Diego area scouting groups but has included championship Little League teams, school honor groups, etc. A party of 15, including three adults, comprises each group. The tour, of course, is offered without charge.

BLIND CHILDREN'S FLIGHTS

In July of this year, PSA inaugurated a service by which members of the Foundation for the Junior Blind in Los Angeles are flown to San Diego without charge for a tour through the unique

Children's Zoo. The visit to San Diego includes lunch and a personalized tour through a PSA Electra-Jet, complete with a visit to the cockpit. It is estimated that most of the 400 children in the Foundation will have made the visit to San Diego by the end of summer. Due to the great response of the campaign together with the growing number of children joining the Foundation, it is hoped that the flights will be continued on a once-a-week basis during the fall in order to accommodate these new children. At present, each tour includes ten children and two adults and is held each Monday through Thursday.

AIRPORT TOURS IN SAN DIEGO

PSA has also opened its San Diego main-base-facilities for on ground tours for youth and school groups. This includes a tour of the operations and maintenance end of conduction an airline and a walkthrough through one of PSA's Electra-Jets.

CHARITY SCENIC FLIGHTS

Every corporation and large business often receives solicitations for donations. PSA, however, has gone one step further in providing free scenic flights as fund-raising projects -- with all resulting funds going directly to that charity. In this way, it is felt that the contribution may be much greater in the area of monetary value and, more important, every PSA employee taking part may actually feel a contributor to the donation being made.

As an indication of these activities, the following is a brief break-down of charity flights held within the past year.

ACTIVITY	DATE	FLIGHTS	PAX	REVENUE
Cancer Society (L.A.)	8/27/63	3	234	$ 858.00
Scout Flights (L.A.)	4/04/64	3	225	1000.00 plus
Cancer Society (L.A.)	4/25/64	3	279	1185.00
Cancer Society (San Diego)	7/04/64	4	392	1275.00 plus

ONE-TIME ACTIVITIES

The following is a brief rundown of one-time projects undertaken and currently being carried out by PSA in the area of community and charity relations.

1. Opening of Sea World

   In conjunction with the opening of the famous amusement facility in San Diego earlier this year, PSA hosted members of the San Francisco and Los Angeles press and their families to San Diego for the opening day festivities.

2. Yellowtail Derby

   One of the highlights of the summer period in the San Diego resort area is the famed Yellowtail Derby. PSA is one of the major contributors to the Derby's annual success by contributing round-trip passes to weekly winners.

3. Retarded Children's Bowling Team of San Diego

   Upon a request from the San Diego County Chapter of the Retarded Children's Association, PSA hosted the local bowling team to San Francisco for the state bowling finals. The group

consisted of a party of 25.

4. Chargers' Championship Game

San Diego takes great pride in the San Diego Chargers --- champions of the American Football League. And so does San Diego-based PSA. For the AFL championship game earlier this year, PSA hosted a special charter from Los Angeles with members of the Los Angeles press, radio, and TV media to view the game.

5. Free Scenic Flights over San Diego

In conjunction with Radio Station KOGO in San Diego, PSA has inaugurated a unique scenic flight contest. Periodically (approximately every two months), KOGO conducts a contest on the air urging listeners to write in stating why they would like to see their City of San Diego from the air. PSA then donates a half-hour charter scenic flight over the area.

6. Santa Claus Flight

In co-sponsorship with the San Jose Junior Chamber of Commerce, PSA donated a flight for a "Christmas in the Sky" party for underprivileged children from the San Jose area. The flight was complete with a Santa Claus, Christmas decorations, and refreshments.

7. United Crusade of the Bay Area

For the past two years, PSA has donated a charter flight to the San Francisco United Crusade campaign. In 1962, a

flight was donated for a "Halloween in the Sky" party for under-privileged children. Last year, meanwhile, PSA hosted a unique flight for campaign district chairmen. As the PSA Electra-Jet flew over each campaign district, the district chairman gave a "visual" report on the Crusade's success, etc., in that immediate area.

8. "What Would I do With an Airplane For an Hour" Contest

Late last summer, PSA, in conjunction with a San Francisco radio station and an affiliate in Los Angeles, sponsored a unique contest in which listeners wrote in stating what they would like to do with an airplane for an hour. The winner of the Los Angeles scenic flight was a Youth Band from the Redondo Beach area which has donated hundreds of hours of time while performing at benefit parades, etc. The winner of the Bay Area flight, meanwhile, was a professor at Stanford University who won the flight for a group of visiting educators from throughout the world. A special runner-up prize was awarded to a San Francisco youth who wanted the plane as a means of giving a "Birthday in the Sky" party for his little sister. This particular flight won nation-wide acclaim and was covered by newspaper, radio, and TV media.

These are only a few examples of the type of activities that PSA has offered in its interest in community activities. There are many more to be listed, and PSA has every intent to continue

its contributions and cooperation with worthwhile civic projects.

SENATOR STURGEON: Are all of your six aircraft in service all the time or do you have one that stands by?

MR. McINNIS: They are in service all of the time. The overhaul work is done at night or in slack schedule periods. If an airplane must be pulled off for its hourly check in accordance with CAB safety regulations, it is out of commission. Otherwise they are all flying.

SENATOR STURGEON: You are able to maintain your schedules though without one that might be down for a check?

J. FLOYD ANDREWS, PRESIDENT, PACIFIC SOUTHWEST AIRLINES: In effect, the six aircraft that we have are continually operating the schedule, but should any one of them be down for mechanical purposes, the schedule is such that it does not require that they all be flying.

SENATOR CHRISTENSEN: Does A.B. 199 extend to the Public Utilities Commission the power to require extension of service to communities not now serviced by PSA?

MR. McINNIS: No, because of the subsidy situation. What the bill does require is that if a carrier is going into a new service, it must establish this schedule and service with the approval of the PUC; then it can abandon it and walk away without PUC's review and consent, which is similar in effect to the CAB.

SENATOR CHRISTENSEN: The intrastate carrier such as PSA has selected its own service to whatever communities it desires.

MR. McINNIS: Correct.

SENATOR CHRISTENSEN: Is there any regulation by any federal or state agency to require an extension of that service to other communities not chosen by PSA?

MR. McINNIS: No. That matter was thoroughly and detailedly considered in framing Assembly Bill 199, which has been worked on for three or four years. The requirement of PUC telling us, "You must fly into Chico; you must fly into Vallejo and so forth" was discarded as economically not feasible because the carrier is put into the position of having to furnish service and perhaps go financially into such straits that it takes away from areas it is presently properly serving and dilutes the whole operation.

SENATOR CHRISTENSEN: Would you object to legislation that would, upon the request of a local area, give the Commission the right to investigate the adequacy of service and if found to be inadequate, to require, as a condition of its permit, the extension of service to either non-served areas or an extension in the level, or raising the level of service to those agencies?

MR. McINNIS: Yes, for this reason: if that were to be the law and PUC said that a particular area needs service, it means that the carrier has to acquire necessary equipment for this service and is put to the expense of testing it out to see if they are

correct. And experience in the airline industry has proven beyond question that you can't go into an area and start operations and make any money. You have to have an experience; in fact, the CAB takes five, six, seven years over a haul to see whether or not a service is good or bad. In the meantime, if the carrier is losing money, they subsidize them. Now if the State of California is prepared and ready to assist the carrier, we would go along, but not where they can't give us a monoply. In other words, we walk in and pioneer an area, then the interstate carrier comes in and takes over perhaps. So we have no protection.

SENATOR CHRISTENSEN: Have you at any time ever objected to an application to the Public Utilities Commission by another intrastate carrier to serve the same area that you serve?

MR. McINNIS: No. At the present time, the PUC only requires the filing of a tariff and then you start flying, and this is one of the things that we think should be regulated. We feel, and have always felt, that an intrastate carrier should be subjected to some review, some scrutiny by a legislative body before it is given the right to start a service. This isn't true today. In other words, any of you gentlemen can go out and get an airplane today, file your tariff with the PUC and start flying between Los Angeles and San Francisco, or anywhere else.

SENATOR CHRISTENSEN: Certain areas of the State are concerned about the adequacy of service being rendered, and the only

service that is being rendered is by those airlines subject to the Civil Aeronautics Board. There isn't any agency that can require an extension or rendition of service, or raising of the level of service.

MR. McINNIS: That is perfectly true.

SENATOR CHRISTENSEN: And that is the way you would like it to remain?

MR. McINNIS: Yes, for the reasons stated, plus the fact that we feel that our operation, at least at this time and in the forseeable immediate future, is such that we couldn't provide this. Our aircraft will be a fleet of 727 jets. You couldn't bring that airplane into some of these other areas, you would lose your shirt; it is not built for that. You have to work it and work it hard to make it pay, and this doesn't mean one flight into Sacramento, one flight into Chico, one flight into Crescent City, one flight into Fresno and Bakersfield and home.

We propose that someone do something about the third level carrier, a carrier who would operate the type of aircraft known as a Fairchild Taxi or Bonanza type, the high-winged frame, seating maybe 60 people. And that the state do something about financing or assisting those people.

SENATOR CHRISTENSEN: Do you see any reasonable prospect of areas that are not being served, or which are being served inadequately by lines under the jurisdiction of the Civil Aeronautics

Board having any increase in service or any service at all, unless the Public Utilities Commission is given the power to require that by intrastate carriers?

MR. McINNIS: You have a paradoxical situation: you have the interstate carrier who is now giving this service in areas, and the state can't control that carrier at this time. You have to get relief from the CAB; if there's no relief present there, then that leaves only the intrastate carrier to be subjected to this regulation.

SENATOR CHRISTENSEN: What is the basis for your distinction between the propriety of regulation by the Civil Aeronautics Board to require additional service and the lack of any such regulation by the sole agency that has power to license an intrastate carrier in this state? If it is salutary legislation at the federal level, why isn't it for the state?

MR. McINNIS: Monopoly and subsidy. CAB can say only one carrier will fly a particular route, and this gives them all the business. They also review the run; if it is not profitable, they will renegotiate the carrier's mail contract to say in business, to give the service. But where can the State of California do that to the intrastate carriers? It can't protect them enough because the interstate carriers can put competition right in there.

CHAIRMAN COLLIER: Why can't you develop a market in Sacramento or Redding or Eureka?

MR. McINNIS: We are not at this time financially strong enough, nor do we have the equipment.

CHAIRMAN COLLIER: You are consistent because you have put your best foot forward and sell your side of the case. Certainly you are looking after your corporation and that is your primary business. Our primary business is to look after the general public.

MR. McINNIS: We are in business in two ways. One is to make money and the other is to render a public service and give the traveling public something that we can count on. We have done that by operating this type of a commuter service.

CHAIRMAN COLLIER: Your corporation did this on its own strength and pulled yourselves up by your boot straps. Don't you think you could pull yourself up a little more in some of these other communities? We don't want you getting off into the big time and deserting us too. We want you to expand intrastate in California so that we can get some service.

MR. ANDREWS: This is certainly a possibility. We feel that the smaller communities of the State could better be served by an operator with experience in that field, such as an air taxi operator or small twin engine aircraft. They could do a much finer job than we could. For larger areas that require 50 or 60

passenger aircraft, it certainly is a possibility for PSA, but like everything with PSA, it comes through development and in time.

SENATOR SCHRADE: PSA is a very fine airline and has its home headquarters in San Diego County. I had the opportunity of viewing the operation, and I think it would be well if you would give the committees just a little bit on the maintenance phase of your operation.

MR. ANDREWS: The maintenance facilities as operated by PSA in San Diego, although being quite a small airline, are very sizeable. On March 31, 1964, we completed the installation of our entire engine overhaul shop in San Diego. Maintenance performance and procedural techniques as developed by PSA in San Diego are met with very high esteem in the minds of the FAA and other individuals. We have at all times five to six engines sitting on the floor as spares while others are going through the shop. We are in the process now of gaining contracts from other agencies to overhaul their engines. The installation represents near a million dollar investment and is quite a sizeable function in San Diego.

ASSEMBLYMAN YOUNG: One of the reasons that you do not seek interstate status is the fact that you would be subjected to additional regulations. Specifically, what kind of regulations? Those are not safety regulations?

MR. McINNIS: You are correct in that. There's no distinction between our operation and the interstate carriers from the standpoint of flight equipment, supervision, safety, inspection, logs, overhaul: we are all in the same position under the exclusive supervision of the FAA. If we went outside the state, it would bring our intrastate operation also under CAB. Then they could say to us, " Maybe you shouldn't be in this San Francisco run the way you are; maybe you should be raising your prices." And we don't care to be subjected to that; we want to give the state the best ride at the lowest cost.

CHAIRMAN COLLIER: When you obtain the jets, what are you going to do with the six Electro-Jets?

MR. McINNIS: To be candid about it, we have not made the decision because we have problems in our financial structure. To be honest with you, we are looking at other routes in California. We want to grow, but we want to grow in such a manner that we are not going to cripple the operation by jumping in without financial stability.

CHAIRMAN COLLIER: Did you look at this new DC-9?

MR. McINNIS: We gave it a good hard look and it doesn't have the seating capacity of the 727. The range and fuel consumption fits better in our present hauling, and the price variance is such that we thought we had a better deal at Boeing.

CHAIRMAN CARRELL: In the handling of luggage, is there any progress on this?

MR. McINNIS: This has been a problem ever since they started flying airplanes and the airport authorities pretty much control that. It is not satisfactory. We are not too happy with it, but it seems the best that the airport people can come up with.

CHAIRMAN COLLIER: Are you considered a public utility?

MR. McINNIS: The Supreme Court of California has held that air carriers such as ourselves, are not public utilities, except in the regulation of tariffs, rates, and that sort of thing.

SENATOR PITTMAN: What you have done is proven that under a given set of circumstances it is possible for airlines to create the commuter type service, if you have three metropolitan areas similar to a surface mass transit system.

MR. McINNIS: That is correct. We feel that we are specialists in the field and that we have brought it about after long experience, hard work and no return when we were on the ragged edge financially, and we want to keep this service for the metropolitan areas. We are in this never-ending cycle of equipment. We are now going into 27½ million dollars worth of new equipment and this is going to take substantial financing, and it means we are back in debt, substantially speaking. But to keep the competition up, to compete with the interstate carriers, we have to keep the equipment up and we want to do this. If we didn't

have the new equipment and could financially see our way to go into the smaller places, we would be happy to do it, but it would be at a sacrifice on the present operation.

SENATOR GIBSON: You have competition in the field at all at this time?

MR. McINNIS: We have plenty of competition: Western, United, Pacific, American.

SENATOR GIBSON: With the same tariffs?

MR. McINNIS: Yes. But we brought them down to that tariff.

SENATOR GIBSON: If your competition agreed to extend their services to these other smaller communities, would that by any chance change your thinking?

MR. McINNIS: No, for this reason: it gets back to the financial strength of the operation and in order to keep our financial strength at an adequate level, it is necessary that we operate a high density volume operation, and this is what we are equipped to do. We got burned once real good, and that was when we instigated service into Oakland. We were assured there was a good market. We went in there, and we literally lost our shirts. We had to back out. It almost jeopardized the operation to the extent that we practically lost our Los Angeles-San Francisco operation and this has been a weight on our thinking. If our financial lenders thought we would be forced into some service, I don't think we could ever borrow a nickel.

SENATOR GIBSON: At the present time, do you consider yourself financially able to continue the service you are now rendering?

MR. McINNIS: We believe we are; however, with these new aircraft we are back in hock again.

SENATOR GIBSON: What kind of interest rate do you have?

MR. McINNIS: We hope it is about 5½. The lender would back away from us if he thought we were going to be spread so thin that his security would be gone.

SENATOR GIBSON: What type of depreciation can you take?

MR. McINNIS: We can spread the life of the airplane over ten years.

SENATOR STURGEON: I am interested in the rate structure. How do you arrive at your San Francisco-Los Angeles rate of $13.50?

MR. McINNIS: We flew this route prior to 1960 with DC4 aircraft and at that time our fare was $11.71. We went to the Public Utilities Commission and asked for an increased rate to $13.50 with the Electras. A rate hearing was conducted, and they granted us a tariff of $13.50 in 1960.

SENATOR STURGEON: I understand the interstate carriers have only recently matched it.

MR. McINNIS: Yes. They reduced down because of competition.

SENATOR STURGEON: Were they able to do that without another hearing?

MR. McINNIS: No. They had a hearing, but they filed first with the CAB and the CAB allows the tariff and then they file with the PUC. The PUC can't very well decline a tariff approved by the CAB.

SENATOR STURGEON: This tariff puzzles me. In other types of transportation, the PUC sets the charge from one specific point to another and whoever has the certificate has to charge that price. Or they can charge more by agreement, but they cannot charge less by agreement.

MR. McINNIS: That is true.

SENATOR STURGEON: If you were to extend into Sacramento, do you think that your fare would be comparable to $27 round trip to San Francisco, or would you match the $45 that other carriers are charging?

MR. McINNIS: All carriers file according to air miles, upon the type of equipment, landing fees, how many stops. You figure the mileage and figure out your fare.

SENATOR STURGEON: But we could assume that your fare would be less than $45 round trip to Sacramento?

MR. McINNIS: If we went into an operation such as that, we would try to provide an attractive figure, naturally, at a point where we could obtain a reasonable return and provide competition to the other carrier, which would be probably a reduced amount.

LAWRENCE A. MUDGETT, PRESIDENT OF TRANS CALIFORNIA AIRLINES:

I formed Trans California Airlines in 1962. It was certificated by the Federal Aviation Agency and commenced operating an air service on a scheduled basis in August of that year between Burbank and Oakland. There have been many indications of certain California lawmakers and other state officials showing signs of not being familiar with civil air regulations of the Federal Aviation Agency and the Civil Aeronautics Board. For the benefit of those here who may not be familiar with this subject, I believe it would be of tremendous value to you and also to the people that you represent for you to familiarize yourself with Part 42 of the Civil Air Regulations.

In aviation, as well as in all other fields, new laws are made every day. This is quite necessary to meet the changing times. In transportation, it is obvious that new and faster means of transportation demands a need for more and more regulations to properly safeguard the safety of the traveling public. Under present law, intrastate carriers such as Pacific Southwest, California Time, Mercer Enterprises, California Airlines, and Trans California Airlines are licensed by the Federal Aviation Agency under the rules of Revised Part 42 of the Civil Air Regulation.

All economic regulations under this Part pertaining to such subjects as financial responsibility, insurance requirements,

and so forth are identical to interstate carriers who operate under the rules of Part 40. The only difference is that these interstate airlines have a Certificate of Convenience and Necessity issued by the Civil Aeronautics Board authorizing them to carry passengers and goods interstate on a scheduled basis. A straight Part 42 carrier does not have a Certificate of Convenience and Necessity issued by the Civil Aeronautics Board to operate between certain points and at a certain fare as do United and Trans World and others, but has authority to operate between any two points in the United States and in many instances, they have world-wide coverage on a charter basis. Now this is a straight Part 42 carrier. A Part 42 operator cannot economically maintain a complete station facility at every city in the world that they may service, and some of these perhaps not more often than once a year. For this reason and other similar reasons, Part 42 of the Civil Air Regulations was written as a set of operating regulations to cover this type of air carrier.

Getting back to the intrastate carrier, we do not have a Certificate of Convenience and Necessity issued by the Civil Aeronautics Board to operate interstate on a scheduled basis or on a charter basis as we do not conduct business outside the state of California. We obtain from the Federal Aviation Agency a commercial operator's certificate. This in itself means very little, without showing the type of commercial operation with

large aircraft we plan to engage in, whether it be towing banners, fire fighting, crop dusting or any other type of commercial flying. In our case, it is carrying passengers and goods for hire intrastate in California on a scheduled basis. This is exactly what United and TWA and other major carriers are doing interstate, so we are obligated by the Federal Aviation Agency to operate under the same set of rules as these carriers, which is Part 40 of the Civil Air Regulations.

California is a great and growing state and will continue to be as long as the first law of economics, the law of supply and demand, is allowed to continue, and progress will continue as long as free enterprise is not smothered out by big businesses creating monopolies through legislation and ultimately taking more money out of this great state than is brought in. California is a unique state. Due to our geography, there is a greater difference between air transportation and surface transportation than in many other states. Air transportation is big business in this state, but we have only scratched the surface. Statistics from all airlines serving California cities will show that air transportation in this state is growing faster than in any other state in the Union, and also that the future of this state holds a greater and greater need for all class of air transportation for all classes of people.

Without the very vital element of free enterprise in this, it is reasonable to assume that air travel in this state could reduce to one-third and hundreds of thousands of people would be unemployed as a direct or indirect result.

The Federal Aviation Agency is doing an excellent job of controlling the operation of all airlines licensed in the United States today and the Civil Aeronautics Board is very effectively regulating the economic function of air carriers that come under their jurisdiction. The authority is exactly where it should be. In these instances and for the safety and general welfare of the public, there is little room for improvement. As any room for improvement through legislation does arise, experts in the field in the employ of the United States government will immediately take effective action. In this instance, I will say that the airlines themselves have a great responsibility and in the case of Trans California Airlines, and I might add, other carriers who have operated intrastate in the state, I will let the records speak for themselves.

I am opposed to any state attempting to overrule the United States government in controlling air transportation over federal airways. Any set of rules by the state could only be a duplication, and at a great expense to the taxpayer. If an attempt was made to add to the present rules, that would also be an unnecessary expense to the taxpayer, an insult to the United States

government and in some cases, an unnecessary hardship on free enterprise companies who are competing with other companies who, in all probability, would not be affected by any new rules, and ultimately, the cost would be borne by the traveling public. It is my opinion that the Public Utilities Commission of the State of California is doing an excellent job of executing economic regulations of transportation in California and there is no vacuum or areas not covered as has been indicated by a small minority of the people who have been chosen to represent the citizens of California. I sincerely believe that a more careful study of the situation should be made by anyone and everyone who has a voice in a proposed changes. It is extremely easy for many to take the word of a few who set themselves up as experts in the field, and especially where safety is involved. In this instance, it is of utmost importance that the public get the most for their tax dollar and that everyone having a voice in any proposed change owes it to themselves and to the citizens of California to find out, without any question, who wants these changes, who does not want them, and how will each be affected.

SENATOR DOLWIG: On the basis of your testimony, you are opposed to Assembly Bill 199?

MR. MUDGETT: Yes.

SENATOR DOLWIG: For the reasons that you stated, you think that further regulation is not necessary.

MR. MUDGETT: I think it is not necessary at this time.

SENATOR DOLWIG: Do you think it might be necessary at some time in the future?

MR. MUDGETT: It could be. It is possible.

SENATOR DOLWIG: What circumstances do you think would make it necessary for further regulations?

MR. MUDGETT: If aviation had reached a saturation point in growth and it became uneconomical or an economic hardship on the carriers themselves to have too many carriers flying the same routes. At this time it doesn't seem to be the case.

SENATOR GEDDES: You say we don't need more regulations and yet I am mindful of the terrible accident we had up in the Tahoe area. How do you avoid those accidents if we don't have regulations?

MR. MUDGETT: Everybody concerned was warned well in advance that this was going to happen. There was some negligence there, very obviously, and this was not anything that any legislation within the state of California itself could have controlled. The Federal Aviation Agency has the most stringent controls in the world over the safety functions of airlines. They probably should have further investigated the individuals responsible for the activities of that particular company.

RICHARD T. MAUS, PRESIDENT OF CALIFORNIA AIRLINES: We were incorporated in February of 1964 and have not, as yet, commenced our intrastate operations. They are scheduled for the fall of this year. We will initially cover four stations in the North and four stations in the South: San Francisco, San Jose, Oakland, Sacramento, Los Angeles, Ontario, Palm Springs, and San Diego. We intend, however, to expand that service at a later time, using four Caravel pure jets.

LES COHEN, DIRECTOR, GOVERNMENTAL AFFAIRS, CALIFORNIA STATE COLLEGES: Before discussing the specific policy of the California State Colleges regarding charter air transportation, I wish to provide you with a brief statement about the management, control, and operation of the State College system.

As you are no doubt aware, the California State Colleges is a system of seventeen multi-purpose four-year and graduate institutions of higher education, having a combined enrollment in excess of 133,000 students in regular session. It is the largest system of higher education in the western hemisphere. For the convenience of the members of the Committees, a list of the State Colleges, with their location and present and projected enrollments is attached to this statement as Exhibit "A".

The California State Colleges is governed by a Board of Trustees consisting of the Governor, and other statewide elected officials, the Chancellor, and sixteen persons appointed by the

Governor with terms of eight years. Established by the Donahoe Higher Education Act of 1960, the Board of Trustees became, on July 1, 1961, the governing body for the State Colleges and at that time succeeded to the powers, duties and functions with respect to the administration and control of the State Colleges, previously vested in the State Board of Education and the Director of Education. The Office of the Chancellor was created to assist the Board of Trustees in the development in governing policies and to provide centralized administrative services for the entire State College system.

When the Board of Trustees adopted its policy for air charter transportation, the Board declared it to be in the best interest of the peoples of California to insure the highest possible degree of safety for State College students who fly in connection with college-sponsored activities and that such policy was declared to be a public purpose of great significance.

Each year a large number of charter flights are arranged by student associations and related organizations, for the transportation of athletic teams, artistic groups, and others. Most of these charters, but by no means all of them, are for intrastate carriage. This is a long standing practice.

Gentlemen, I am sure that each of you will recall the tragic crash of the airliner carrying the California State Polytechnic College football team. On October 29, 1960, the Cal-Poly

football season came abruptly to an end. As the team left a foggy Toledo airport, bound for Santa Maria, its plane crashed, killing seventeen members of the football team and injuring twenty-two students and college staff members, due to what proved to be the improper operations of a supplemental air carrier. The crash has been called by some the "worst accident involving an American athletic group." It has resulted in tragic loss of life, serious injuries, broken families, and created severe financial hardships for many as well as a host of intricate legal complexities.

Following this disastrous accident, the State Board of Education, on November 2, 1961, by resolution, provided that State College students, when flying in connection with college sponsored activities could utilize only scheduled air carriers. The Board of Trustees subsequently modified this policy by permitting flights on Military Air Transportation Service (MATS) equipment.

The Board of Trustees are mindful of the public trust which was created when the Legislature, in its wisdom and foresight, chose to vest in the Board the full authority and responsibility to act continuously in the best interests of the citizens of this state, the State Colleges and the students. In July 1963, the Board of Trustees further refined its policy by restricting flights to interstate and foreign scheduled air carriers, and

Military Air Transportation Service-operated equipment. The Chancellor's Executive Order, issued pursuant to the Board's action is attached to this statement as Exhibit "B".

It is the considered judgment of the Board of Trustees of the California State Colleges, that its present policy, as embodied in the Chancellor's Executive Order is sound and should not be modified with respect to supplemental air carriers or intrastate scheduled air carriers at the present time. The Board firmly believes that the results of this existing policy are self evident. Had this policy not been in effect several of the State Colleges might still be using the charter air services of that independent airlines firm involved in that tragic accident which occurred recently near Lake Tahoe.

To fulfill its public obligation, the Board of Trustees have assumed the responsibility to provide, through the well recognized and expert services of the Civil Aeronautics Board and the Federal Aviation Agency, a program designed to protect, promote and preserve the health, safety and welfare of State College personnel as being in the best public interest. Any airlines which has not received an appropriate certificate or permit, as the case may be, issued by the Federal Aviation Agency, and an appropriate certificate of public convenience and necessity, issued by the Civil Aeronautics Board shall not be permitted to provide charter air services to the California State Colleges.

There is no room for compromise or exception to this policy- rigid safety standards and careful adherence to the principles of air safety is an absolute necessity and the only way the Board of Trustees may reasonably satisfy itself that such exists in actual practice is through approval granted to any airlines by the Civil Aeronautics Board and the Federal Aviation Agency.

You gentlemen also may be interested in Assembly Joint Resolution No. 10, Chapter 69, filed with the Secretary of State on May 15, 1964 relative to charter air service regulations. A copy of this resolution is attached to this statement as Exhibit "C". This resolution was introduced by Assemblyman Joseph Kennick (co-authors Messrs. Williamson, Holmes, Waite, Ashcraft, Booth, Britschgi, Casey, Chapel, Dills, Ferrell, McMillan, Monagan, Moreno, Pattee, Quimby, Soto, Stanton and Whetmore) on April 13, 1964, when it became known that the effect of a proposed Civil Aeronautics Board regulation, requiring the scheduled airlines to offer the supplemental air carriers the right of first refusal on off-route charters, would be to seriously impede the charter activity of the California State Colleges, the University of California along with other institutions of higher learning and athletic organizations.

When considered together with the reasonable and essential policy of the Board of Trustees and other governing boards in higher education, the practical effect of the proposed rule,

if adopted in its present form, would be to prevent charter flights altogether for State College programs. The alternative would be to purchase tourist-class passage on scheduled flights but the added cost would result in substantial curtailment in the scope and number of a great many systemwide activities and intercollegiate events.

The California State Colleges have filed its comments with the Civil Aeronautics Board regarding its concern of the hardship which would be created to the State College system and other institutions of higher education were the regulation adopted in its present form. Should the Civil Aeronautics Board deem it wise to provide all cargo and supplemental carriers with right of first refusal, we have respectfully requested that this provision not apply to institutions of higher education when chartering aircraft for college-sponsored activities. The Civil Aeronautics Board heard final oral testimony on July 8, 1964 which is the last procedural step and the matter was taken under submission. The decision will be issued in the next few months.

A list of the institutions of higher learning and athletic organizations which, up to April 2, 1964, had written to the Civil Aeronautics Board protesting the proposed resolution is attached to this statement as Exhibit "D". Copies of Assembly Joint Resolution No. 10 expressing the concern of the Legisla-

ture have been transmitted by the Chief Clerk of the Assembly to persons and agencies as indicated therein.

At this time, I wish to inform the members of the Committees that Mr. Mayer Chapman, Associate Counsel for the California State Colleges is present today. Mr. Chapman has been directly involved in the matter of air charters transportation and is intimately familiar with the details. Mr. Chapman is most happy to respond to any questions you may have concerning anything that has or may be referred to by others in reference to underlying principles which led to this formulation of the Board of Trustees policy on air charter service.

In conclusion, gentlemen, please let us assure you that the Board of Trustees and Chancellor Dumke have shouldered this responsibility and the policy concerning the matter at hand is consistent with the public good and the California State Colleges will continue to actively pursue sound policies in the interest of the students and the people of California.

The California State Colleges are grateful for the opportunity to present this statement to your Committees, and we will, of course, be happy to respond to any questions from members of the Committees, orally today, or respond in writing at any time.

CALIFORNIA STATE COLLEGES
TOTAL FALL ENROLLMENT IN REGULAR SESSIONS
REPORTED FALL, 1963
*PROJECTED FALL, 1975

	Fall 1963	Fall 1975
California State College at Fullerton	3,628	23,300
California State College at Hayward	2,367	20,400
California State College at Long Beach	14,735	45,000
California State College at Los Angeles	18,574	45,000
California State College at Palos Verdes	- [1]	15,000
California State College at San Bernardino	- [1]	12,850
California State Polytechnic College:		
Kellogg-Voorhis	3,869	18,850
San Luis Obispo	6,310	12,650
Chico State College, Chico	4,131	7,250
Fresno State College, Fresno	7,849	11,750
Humboldt State College, Arcata	2,602	5,750
Sacramento State College, Sacramento	8,250	17,300
San Diego State College, San Diego	14,394	32,300
San Fernando Valley State College, Northridge	9,923	46,550
San Francisco State College, San Francisco	15,575	18,450
San Jose State College, San Jose	19,450	38,800
Sonoma State College, Rohnert Park	724	3,450
Stanislaus State College, Turlock	727	3,250
All State Colleges	133,108	377,900

*Status quo projections from "Projections of Enrollment For California's Institutions of Higher Education, 1960-1975", prepared for the Master Plan Survey Team, October, 1960.

---

[1] To be opened for instruction in Fall, 1965.

EXHIBIT "A"

EXECUTIVE ORDER

Effective immediately, all State College student associations and all organizations affiliated with any such association, with any State College or with the California State Colleges, when traveling by air, will utilize only those airlines which satisfy one of the following:

1. Carriers operating under Parts 40,41 or 44 of Chapter I, Subchapter A of the Regulations of the Federal Aviation Agency (14 C.F.R.), and who have in force a certificate or permit, as the case may be, issued by the Federal Aviation Agency, and a Certificate of Public Convenience and Necessity appropriate for the particular carriage, issued by the Civil Aeronautics Board under Parts 202, 203, or 207 of Chapter II, Subchapter A of the Regulations of the Civil Aeronautics Board (14C.F.R.). In all cases of utilization of any of the carriers specified above for other than scheduled flights, the carrier shall provide the College with a certificate of liability insurance in force covering bodily injury or death of State College student passengers in the amounts and subject to the terms, conditions and authorized exclusions at least equivalent to that coverage required by the provisions of Part 208, Chapter II, Subchapter A of the Regulations of the Civil Aeronautics Board (14 C.F.R.).

2. Flights of the Military Air Transport Service of the United States Air Force, either on Air Force equipment or on equipment owned by private carriers operating pursuant to contract with said Military Air Transport Service; provided that:

   a. All such flights on Air Force equipment are subject to the Federal Tort Claims Act, and liability insurance is in force in the same amounts and subject to the same terms, conditions and authorized exclusions as is required under Part 1 of this Order.

EXHIBIT "B"

b. All such flights on equipment owned by private carriers operating pursuant to contract with said Military Air Transport Service, shall be with carriers who satisfy each of the requisites of Part 1 of this Order.

Dated: July 30, 1963.

Signed/ _____
Chancellor

No. 2 - Travel - Off Campus: L62-141

EXHIBIT "B"

"Assembly Joint Resolution No. 10

CHAPTER 69

Assembly Joint Resolution No. 10 - Relative to charter air service regulations.

(Filed with Secretary of State May 15, 1964.)

WHEREAS, There is pending before the Civil Aeronautics Board a proposed regulation change that would guarantee to all supplemental nonscheduled airlines the right of first refusal on all charter requests made to scheduled airlines; and

WHEREAS, The adoption of such regulation would deprive Californians of free choice in the selection of charter air transportation; and

WHEREAS, Federal safety and insurance requirements for nonscheduled carriers do not provide the same guarantees as those available to the passengers of scheduled carriers; and

WHEREAS, The California State Colleges and the University of California along with other institutions of learning and athletic organizations have petitioned the Civil Aeronautics Board in opposition to the proposed regulation change; now, therefore, be it

RESOLVED by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Civil Aeronautics Board to proceed with utmost caution in considering the adoption of regulations that would further limit the competitive choice now available to charter air service customers and advises the Civil Aeronautics Board that the California Legislature opposes any regulation change which, in effect, subsidizes the nonscheduled segment of the airline industry at the expense of the traveling public and the scheduled carriers; and be it further

RESOLVED, That the Chief Clerk of the Assembly be hereby directed to transmit copies of this resolution to the President of the United States; the President pro Tempore of the United States Senate; the Speaker of the House of Representatives; each Senator and Representative from California in the Congress of the United States; and the Civil Aeronautics Board."

EXHIBIT "C"

LIST OF COLLEGES AND ATHLETIC ORGANIZATIONS

April 2, 1964

California State Colleges
(Seventeen Institutions)

University of Pittsburgh

Washington State University

Michigan State University

Pennsylvania State University

University of Wyoming

Northwestern University

University of Colorado

University of Wisconsin

Colorado State University

Clemson College

University of Illinois

State University of Iowa

Ohio State University

Louisiana State University

University of New Mexico

Brigham Young University

Georgia Tech

University of Kentucky

Wisconsin Student Association
(University of Wisconsin)

Pittsburgh Stealers

Milwaukee Braves

Houston Oilers

Cincinnati Reds

Pittsburgh Baseball Club

Chicago White Socks

Inter-Collegiate Conference

Chicago Bears

National Football League

Minnesota Twins

Denver Broncos Football Club

Baltimore Baseball Club

American Football League

National League of Professions
Baseball Clubs

EXHIBIT "D"

ALBERT L. BUTLER, CHIEF OF THE AIR CARRIER BRANCH, FLIGHT STANDARDS DIVISION OF THE FEDERAL AVIATION AGENCY, WESTERN REGION: We have responsibility for the certification and surveillance of air carriers and commercial operators in a nine-state area including the State of California. I am here to read a statement for our Regional Director Mr. Joseph H. Tippets and to answer any questions which you might have concerning the certification of commercial operators by the Federal Aviation Agency.

Mr. Tippets' statement is as follows:

It is a pleasure to present this statement at your invitation regarding the Federal Aviation Agency's certification and surveillance of intrastate commercial operators. I would like at the outset to respectfully refer the Committees to the testimony given by Mr. Jacob W. Rosenthal of the Civil Aeronautics Board and Mr. Robert P. Boyle of the Federal Aviation Agency before the Assembly Interim Committee on Public Utilities and Corporations on February 15, 1962, and to the statement of our Administrator, Mr. Halaby, which appears as Exhibit 1, in the hearings held by that Committee. I believe Mr. Halaby's statement will be of particular interest to the Committees in regard to his discussion of the respective Federal and State jurisdictions. Basically, it is our position that the field of safety and operational regulation of aircraft has been pre-empted by the Federal Government

and State regulation of this subject is unconstitutional.

I feel that the Committees' attention should be directed to the developments regarding the Federal Aviation Agency's safety regulation of intrastate commercial operators, during the intervening two years because certain changes have occurred in that period.

I use the term "intrastate commercial operators" rather than "intrastate air carriers" because under the Federal Aviation Act of 1958 the commercial operator engaging in either common or private carriage for compensation or hire does not come within the definition of "air carrier" and is not considered as an "air carrier" in the Federal regulations. I hasten to add, however, that failure to classify a commercial operator as an air carrier does not mean any lessening of safety requirements. Furthermore, my statement relates only to commercial operators who are utilizing large aircraft, that is, aircraft with a maximum gross certificated takeoff weight of 12,500 pounds or more.

Since Messrs. Rosenthal and Boyle appeared before the Assembly Interim Committee, the Administrator of the Federal Aviation Agency on July 8, 1963, adopted Revised Part 42 of the Civil Air Regulations which, amongst other purposes, was designed to insure the financial responsibility, capable management personnel, operational control, and safe maintenance and operating practices of commercial operators. This comprehensive set of regulations

appears in Title 14 of the Code of Federal Regulations along with the other Federal Aviation Regulations and Civil Air Regulations. Possibly the Committees may wish to make their own study of the Federal regulations and particularly Revised Part 42, but I think it will be of assistance to the Committees at this time to point up certain of the important regulatory provisions contained therein:

First of all, a commercial operator is defined in Revised Part 42 as one who for compensation or hire engages in the carriages by aircraft in air commerce of persons or property other than as an air carrier and includes persons engaging in operations (1) as a common carrier on an intrastate basis, or (2) as a private (or contract carrier) for hire on either an interstate or intrastate basis. If the commercial operator intends to carry persons or property for compensation or hire (exceeding a certain frequency) as a common carrier between two points entirely within a single state, he must not only qualify under the new financial and management requirements of Revised Part 42, but he must also qualify under and comply with all the operational requirements of Part 40 of the Civil Air Regulations, which are the Federal safety regulations applicable to domestic interstate scheduled air carriers. These scheduled intrastate commercial operators are required to have a dispatching service, to meet certain proving tests, to show that sufficient airports, communication facilities, weather

reporting facilities, enroute navigational facilities, service and maintenance facilities are available for the type of operations to be conducted. They are required to have operations specifications, operations manuals, approved training programs and maintenance manuals similar to scheduled interstate air carriers. In short, scheduled intrastate commercial operators must comply with the same safety rules as, for example, United Air Lines, TWA, and Pacific Airlines, and, in addition, because they lack economic authority from the Civil Aeronautics Board must meet certain Federal Aviation Agency financial and management requirements.

At the present time, there are four certificated scheduled commercial intrastate operators conducting common carriage within the State of California. These are : Pacific Southwest Airlines, operating between San Diego, Los Angeles, Burbank and San Francisco; Trans California Airlines, operating between San Diego, Los Angeles, and Oakland; Mercer Enterprises, operating between Burbank and San Diego; and California Time Airlines, presently certificated to operate between Burbank and Palm Springs. The Committee probably knows that Pacific Southwest Airlines which has been certificated as a commercial operator since 1950, presently operates six Lockheed Electra L188 aircraft and has recently announced the purchase of Boeing 727's for use on its routes entirely within the State of California. Trans California operates four Lockheed Constellation 749 aircraft, Mercer Enterprises

operates three DC-3 aircraft, and California Time Airlines, which was only recently certificated, owns one Martin 202 aircraft. Each of the type of aircraft operated in the State of California by FAA certificated commercial operators has a passenger seating capacity in excess of twenty-one persons, and, therefore, the operators would appear to come within the $500,000 minimum personal injury and property damage insurance requirements for each accident adopted this year by the Public Utilities Commission of the State of California.

Incidentally, although insurance was not included as a requirement in the Revised Part 42, which covers supplemental air carriers as well as commercial operators, the Civil Aeronautics Board has adopted liability insurance requirements as a condition to obtaining economic certification to engage in supplemental air transportation. This requirement, however, does not apply to commercial operators.

At the present time, the FAA Western Region, in addition to the aforementioned scheduled intrastate commercial operators, has certified five commercial operators who are limited to private carriage operations for compensation or hire. They may operate interstate as well as intrastate. Only one of these, Aero Spacelines, Ins., is presently based in the State of California and it conducts a highly specialized type of operation exclusively for NASA.

The duration of all commercial operator certificates, regardless of type, is one year, unless sooner surrendered, revoked, or otherwise terminated by order of the Administrator. An application for renewal must be filed each year not less than sixty (60) days prior to expiration. Following application, a detailed inspection is conducted by air carrier inspectors from one of the five Air Carrier District Offices located in the Western Region, and by Regional Auditors, to determine whether the applicant is fully qualified. At this time, the airman, aircraft and operations records, as well as the financial records, are reviewed to determine whether the applicant for renewal has complied with the regulations. If the applicant is a corporation, a listing of all stockholders owning 5% or more of the total voting stock, the names and addresses of all directors and officers, and the names and addresses of all persons directly or indirectly controlling the corporation, plus those who are employed in management positions, is required. If the applicant is not a corporation, the names and addresses of all persons having a financial interest and the nature and extent of such interest, must be shown as well as the names and addresses of all persons who may be in a management position. Revised Part 42 also requires commercial operators to notify the Federal Aviation Agency, within ten (10) days, of any change in the persons listed in the application or any change in the financial information submitted in the application, which

would make the applicant's financial situation less favorable than originally reported. The basic financial information required consists of a balance sheet, a profit and loss statement, an itemization of overdue liabilities, an itemization of claims in litigation, and estimates regarding expected revenue, expenses and cash available for the first three months of operation. Commercial operators are also required to file supplemental periodic financial reports during the period of certification. Such other information as may be necessary to determine whether the applicant has sufficient financial resources to conduct a safe operation may be required. Revised Part 42 specifically forbids certification of an applicant who has previously been revoked, who employs persons in a management position or is controlled by persons whose certificates have been revoked, or who for financial reasons is unable to conduct a safe operation.

In addition to the normal airman, aircraft, airworthiness and general operational regulations which apply to all operations, Revised Part 42 includes certain safety requirements basically patterned after those regulations applicable to domestic scheduled interstate air carriers. Thus, the commercial operator who today conducts private carriage for compensation or hire on an interstate or intrastate basis, must comply with more stringent regulations than heretofore required, and the pre-existing differences between the regulatory safety requirements of domestic scheduled

air carriers, supplemental air carriers and commercial operators has greatly narrowed. But I am sure the Committee appreciates that no set of regulations or laws, no matter how comprehensive or detailed, will completely eliminate those who might compromise safety to gain economic advantage.

Three out of the five Air Carrier District Offices of the FAA Western Region are located in the State of California, at Los Angeles, Burbank, and San Francisco. These offices are staffed by air carrier operations and maintenance inspectors whose job is to survey and inspect all air carriers and commercial operators within their entire area of responsibility. Inspectors assigned, for example, to the Los Angeles Air Carrier District Office survey the operations not only of Pacific Southwest Airlines and Western Air Lines but devote a certain amount of their time to Trans World Airlines, American Airlines, and others because those air carriers operate in the District Office's area of responsibility. Routine periodic base inspections of operations and maintenance practices are supplemented by ramp inspections, in-flight surveillance, and individual flight crew member proficiency checks. The intensity and frequency of our inspections varies somewhat with the size, reputation and experience of the operator, as well as the complexity of the operation. The introduction, for example, of Boeing 727 equipment into Pacific Southwest Airlines' operations will require a good deal of cooperative

planning, revision of manuals and retraining of personnel. On the other hand, the experience and reputation of that operator reduces the necessity for the type of surveillance required of the newly certificated commercial operator operating piston aircraft.

I can personally assure you that I was deeply shocked by the tragic Paradise Airlines accident at Lake Tahoe on March 1, 1964. The probable cause of that accident has yet to be decided by the Civil Aeronautics Board, but our investigation following the accident revealed that the flight had been improperly dispatched and was conducted with an aircraft not equipped with wing deicers into an area where icing conditions might reasonably have been expected. Furthermore, after a detailed investigation of the previous three months of operation, we found that on several previous occasions similar improper dispatches had occurred. We took immediate action to ground the operator and subsequently denied renewal of the certificate, which despite the public utterances by the operator, was not challenged in the courts. I can assure you that our surveillance program, as well as the regulatory requirements, have been reviewed in depth to prevent, insofar as is humanly possible, a repetition of the Lake Tahoe type accident.

NED ZARTMAN, REGIONAL COUNSEL, FEDERAL AVIATION AGENCY: We feel that there is a direct tie between the financial capability

and the safety of the operation. For example, if you are not financially able to keep a sufficient stock of spare parts, you might let your aircraft fly on even though a component of the aircraft is due for replacement or overhaul of some type. Similarly, airmen who are paid and can be paid by the company will continue to operate better if they are paid rather than those who might be inclined to cut corners to be sure that the company receives its revenue.

CHAIRMAN COLLIER: As to the individual stockholder who owns 5 percent or more, and the change in the ownership of stock, why are these important to safety?

MR. ZARTMAN: We have had some rather sad experiences with some of the operators. We do not wish these people to return to the field. One way that we can control that is to assure that we know who controls the corporation and if certain people were listed as owning more than five percent, then we would have to take a very serious look at whether or not we could certificate that particular operator.

CHAIRMAN COLLIER: In other words, you are not only looking at the financial responsibility of the corporation but you are looking at the integrity of the individual stockholder who owns more than five percent?

MR. ZARTMAN: Yes.

CHAIRMAN COLLIER: And that is a direct relationship to safety?

MR. ZARTMAN: Yes. The Tahoe incident occurred March 1, 1964 and these regulations were in effect. It so happened that that particular operator had not come up for renewal but was due for renewal right at that point. I can't say really whether it would have prevented it. Whether or not more inspectors might have caught the Lake Tahoe thing, I wouldn't know.

CHAIRMAN COLLIER: Did this improper dispatching come to the attention of the FAA inspector?

MR. ZARTMAN: That was not known by the FAA inspector.

CHAIRMAN COLLIER: Does the dispatcher have control of the plane or does the captain?

MR. ZARTMAN: The captain has control of the plane before a dispatch and the captain and the dispatcher must agree that the operation can be conducted safely. While enroute, the dispatcher can redispatch to another point, but the captain must also agree to that redispatch.

CHAIRMAN COLLIER: Then there was a joint responsibility?

MR. ZARTMAN: Yes. The ultimate safety of any flight is with the pilot in command, the captain.

ASSEMBLYMAN LANTERMAN: Why is it that when the first improper dispatch occurred, and it is a matter of record, that automatically an alert was not directed to the office so that an inspector immediately inquires as to the reason for the failure, and on a second repeat they would be grounded. What would

prevent this automatic flagging of this kind of potential hazard to the traveling public?

MR. BUTLER: This is similar to the way we do operate. The accident brought about our discovery of the first improper dispatch and then a detailed examination of the records for the past three months revealed that there had been previous improper dispatches.

ASSEMBLYMAN LANTERMAN: There is no way then that an improper dispatch can be brought to your attention except on post inspection?

MR. BUTLER: The improper dispatch has to occur before we can detect it. Quite often by inspection we detect improper procedures and we immediately take corrective action.

ASSEMBLYMAN LANTERMAN: The integrity of the line and their capacity and experience would indicate the amount of inspection they would get as compared with a line that doesn't have the integrity or the experience. So you would put more attention to this kind of carrier and, therefore, you should make more automatic inspections as to these potentials.

MR. BUTLER: This is the way we do work: If we detect any pattern, or frequency of discrepancies on any airline, we increase our surveillance and inspection and we look for the soft spots and we determine what corrective action is necessary and we see that this is accomplished.

ASSEMBLYMAN GONSALVES: Are these deliberate violations or are they accidental? It seems to me that a pilot of an aircraft, knowing that these hazards exist, that he is going to lose his own life, he wouldn't want to take the aircraft out under these conditions.

MR. BUTLER: In this Tahoe investigation, I personally conducted the investigation after this accident and went through the records for three months and I detected, I believe, eight cases of improper dispatch. It was very obvious to me that the people concerned had knowledge that these were improper.

CHAIRMAN COLLIER: Including the pilot?

MR. BUTLER: Yes.

CHAIRMAN COLLIER: Does PSA find that this five percent requirement has in any way impeded your obtaining money with which to buy additional equipment?

MR. McINNIS: No.

CHAIRMAN COLLIER: You don't think it is an economic detriment in any way?

MR. Mc INNIS: None at all.

FREDERICK B. HOLOBOFF, PRESIDENT, CALIFORNIA PUBLIC UTILITIES COMMISSION: We have a brief statement that is intended to thumbnail the profile of the air passenger picture in California and to give you a current picture of where we are on the recent decision of the Commission implementing the provisions of the

Public Utilities Code with respect to liability insurance. Throughout recent years, common carrier airlines have transported more and more of the passengers between Los Angeles and San Francisco. For example, in 1940 the airlines carried about eight percent of the passengers and the buslines 16 percent, and the railroads 76 percent. As of 1957, on a survey based on actual ticket sales, records show that the proportion changed to 70 percent for the airlines, 12 percent for bus, and about 18 percent for the railroads. As of a more current date and in a little different context, for the twelve months ended June 30, 1963, the total intrastate number of passengers carried by airlines was 2,900,000 passengers, representing a 17 percent increase over the previous 12 months' period ending at the same time. In terms of distribution between the intrastate carriers PSA carried the bulk of the passengers; that was 1,180,000, followed by United at some 766,000, and then followed by Western with 517,000.

CHAIRMAN COLLIER: Does the Constitution prevent these intrastate carriers being declared a public utility?

MR. HOLOBOFF: Article XII, Section 17 of the Constitution provides for Commission jurisdiction over other transportation companies and in the Western Airlines Case, it was determined that "other transportation companies" included such operators as Western Airlines. As to whether or not PSA is a public utility under the interpretation of the Public Utilities Act, it is not

a public utility as such. It is a common carrier, pursuant to the provisions of the Constitution. The jurisdiction of the Commission is limited to the intrastate operations of common carriers and this is true, notwithstanding whether we are talking about airlines or highway common carriers or what have you. It is simply limited to intrastate operations.

SENATOR DOLWIG: Pacific Southwest Airlines is not a public utility under the Public Utilities Code, but is subject to jurisdiction of the Commission, due to the fact that it comes in under the definition of a "common carrier."

MR. HOLOBOFF: That is correct.

CHAIRMAN COLLIER: Then the Legislature could change the statute and make the statute compatible with the Constitution.

MR. HOLOBOFF: The Legislature can go beyond that. The Constitution has enumerated in Article XII, Sections 20, 21, and 22 certain things that the Commission can regulate as far as common carriers are concerned and it talks in terms of rates, charges, prohibits discrimination, and so on. Now if the Legislature felt that it was in the public interest, it could expand the jurisdiction of the Commission, pursuant to the plenary provision of the Constitution, with respect to certification, services, facilities and so on. I don't think there is much question about that.

It is difficult to draw the fine line between what is meant by common carrier and a public utility. There are differences on it, but from our standpoint the significance is that it limits the jurisdiction of the Commission.

ASSEMBLYMAN WAITE: At what point does an intrastate carrier become an interstate carrier, resulting in the federal government pre-empting the jurisdiction not vested in the Public Utilities Commission and the Legislature?

MR. HOLOBOFF: We exercise the same limited rate jurisdiction over the CAB certificated carriers as over the intrastate carriers. In other words, United's intrastate fares are determined by the California Commission.

ASSEMBLYMAN WAITE: Even if a flight was originating in Los Angeles and going to San Francisco, and then on to Seattle, you would have the power to regulate the fare from Los Angeles to San Francisco?

MR. HOLOBOFF: I think in that case it would be an interstate flight and I don't think that, from the standpoint of determining the overall fare, we would have. But any operations of United where they ticket a passenger between Los Angeles and San Francisco, that fare is subject to our jurisdiction.

ASSEMBLYMAN WAITE: On that same Los Angeles-Seattle flight those passengers ticketed to San Francisco would be controlled and regulated by the State Public Utilities Commission?

MR. HOLOBOFF: Yes.

SENATOR DOLWIG: Isn't this a situation where there has been no case which has determined to what extent the federal government has pre-empted the field of aircraft regulations? Which means that your Commission could pass certain regulations and the Legislature could pass certain laws: then, if the person was arrested under the law or under the regulation, and wanted to take it to court, we would definitely find out to what extent the federal government had pre-empted the field.

MR. HOLOBOFF: Yes, I think that is correct.

I would just like to enumerate the extent to which we do exercise jurisdiction pursuant to the constitutional provisions. The air carriers must file their tariffs with the Commission, naming their intrastate rates and charges and they must observe the tariffs without deviation. The Commission has the power to establish rates and charges for the transportation of freight or passengers. No rates or charges for the transportation of freight or passengers, or any charge connected therewith, or incidental thereto, may be increased by the carriers under any circumstances without a showing before the Commission of justification therefor. Discrimination in charges or facilities for transportation between places or persons, or in the facilities for the transportation of the same class of freight or passengers is prohibited. The Commission has the power to order and compel carriers to make

reparation to any shipper or passenger upon a finding that the rates charged are excessive or discriminatory.

SENATOR STURGEON: It appears to me that the rates are somewhere just over three cents a mile for passengers from San Francisco to Los Angeles, and they are almost exactly five cents a mile from Sacramento to Los Angeles. Do you consider this discriminatory?

MR. HOLOBOFF: The discrimination has to be an unreasonable or an undue discrimination. I hope I can illustrate the problem that we have by giving you some examples. The cases generally provide that if the transportation conditions warrant the difference in the fare or the rate, then the difference is not an undue or an unreasonable difference. So then you have to look at the density of the traffic and the volume and the load factors and everything else that makes it an economic or uneconomic situation. There is no comparison of the volume of traffic between Los Angeles and San Francisco, as compared to the volume of traffic between Los Angeles and Sacramento.

SENATOR STURGEON: Don't you think the rate has something to do with that volume?

MR. HOLOBOFF: I personally do. I think that in recent years we have seen the very dramatic effect that low air fares have on generating traffic. PSA is the first example of that. The second recent dramatic example is Western's experience with

their Thrift-Air that has proved to be a very successful operation and has proven very competitively effective in even a high density market between Los Angeles and San Francisco where they compete with PSA.

SENATOR STURGEON: We heard testimony from PSA that if they instituted service to Sacramento, that their rates probably would be comparable to those that they now charge. Now they would have to justify that before your Commission?

MR. HOLOBOFF: Initially, they file any rate they think they can live with but would have to justify an increase. We take a look at decreases also.

SENATOR STURGEON: If they filed a rate of say three and a half cents a mile, would you permit them to start operations under that rate?

MR. HOLOBOFF: I think we would, although I think we would make a preliminary investigation.

CHAIRMAN COLLIER: Do you set rates so the intrastate carrier makes a certain return on their investment?

MR. HOLOBOFF: That's correct. That's the one thing that we look at in deciding whether or not an increase is justified. We look at their operating ratio or rate of return, whichever is more appropriate.

SENATOR CHRISTENSEN: An intrastate carrier in this state is not required insofar as the service level is concerned to obtain

any license, permit or authority of any kind from any federal or state agency?

MR. HOLOBOFF: Right. Anybody who would make a downpayment on an airplane, can hire the right number of pilots, can go into the airline business in California as long as he is not proposing to provide interstate service.

SENATOR CHRISTENSEN: Is it your opinion that the Legislature has power by statute to extend that power of the Commission to require service to presently non-serviced areas of this state?

MR. HOLOBOFF: Absolutely, as to whether a new carrier should or should not be permitted to enter the field.

SENATOR CHRISTENSEN: And that would also apply to presently operating intrastate carriers such as PSA?

MR. HOLOBOFF: With the reservation of any grandfather rights, I would say that that is probably true.

ASSEMBLYMAN GONSALVES: California Airlines testified that they expect to start operations between Los Angeles and Sacramento. What about their proposed rates?

MR. HOLOBOFF: Initially all they would have to do would be file their tariffs with us, naming the rates between the points they propose to serve. I think that would be enough for them to get started.

ASSEMBLYMAN GONSALVES: You are adding another carrier, so you are going to decrease the volume. How can they do it with

three carriers versus two then the two now can't do it?

MR. HOLOBOFF: I don't know how they do it or how they propose to do it. The significant point is that we have no power to stop them other than to file their tariffs and subsequently to examine whether or not there's going to be a detrimental effect on the public in general as a result. Initially, it is up to the carrier to determine whether or not he is going to make a profit on it and nobody is going to go into business if they are not going to make a profit. Thereafter, no matter what the tariff is, if it results in discriminatory practices, we do have that jurisdiction and we can inquire into it and we can issue Cease and Desist Orders.

SENATOR DOLWIG: We are agreed that the Commission, under the Constitutional definition of common carrier, has jurisdiction over an intrastate line. Having that jurisdiction, could the Commission, after finding that it is financially feasible, require an intrastate carrier to extend his services to certain other points that they are not doing at the present time?

MR. HOLOBOFF: No, we cannot order them to extend service. But if there is an intrastate carrier competing with another intrastate carrier or with another carrier providing service between the points, if we find that there is discrimination in the rates that they have, we can order the elimination of the discrimination.

SENATOR DOLWIG: For the Commission to have that power would take a legislative action.

MR. HOLOBOFF: That is correct.

CHAIRMAN COLLIER: Do you think it is desirable that the Commission have the power to require the purely intrastate carrier to serve certain points throughout the state?

MR. HOLOBOFF: If the Legislature is going to undertake to vest in the Commission full economic jurisdiction along that line, it ought to be full economic jurisdiction, otherwise you are just going to tie one hand behind the Commission's back and may nullify any beneficial effect of the rest of it.

CHAIRMAN COLLIER: You can, under the present law, require public utilities to serve certain points?

MR. HOLOBOFF: Correct.

ASSEMBLYMAN FORAN: If the Commission were given the power of requiring service to different points in the State of California, would it have an adverse effect on (1) the rates charged between heavily trafficked areas presently served within the State of California, and (2) in the encouragement of other airlines to develop services in the State of California.

MR. HOLOBOFF: I think that you would have that problem and it is a problem that we have in other areas where we regulate; namely, that if you order service to an area where there isn't sufficient density, a sufficient volume of business, you force

yourself to provide rates that would be prohibitively high. In order to insure service to those points, you have a subsidy problem come into play and we have that in other public utility areas. The more densely populated areas of the state are subsidizing to a greater or less extent, the less dense areas of the state.

ASSEMBLYMAN FORAN: Do you have any idea what effect that would have on the tariffs between those dense areas?

MR. HOLOBOFF: The one effect it could have would be to increase the overall fares in order to make the operations compensatory in the less densely populated areas.

ASSEMBLYMAN FORAN: Could it also have the effect of some of the existing carriers deciding not to serve California intrastate?

MR. HOLOBOFF: It could have that effect also.

ASSEMBLYMAN FORAN: And other carriers not deciding to initiate service?

MR. HOLOBOFF: I think that is reasonable to assume.

SENATOR CHRISTENSEN: Regarding the permissible required extension of service, I take it that the Commission would determine what the reasonable charge would be under those circumstances, consistent with the volume of traffic and the cost to the airline. There are areas of this state that desire service, not, however, irrespective of cost. If the statute were passed extending that jurisdiction, would the PUC necessarily be required to fix the

rates under those circumstances to have the cost borne by areas other than the area newly required to be serviced?

MR. HOLOBOFF: This is a problem we face all the time: designing a rate structure that will be workable, but will not impose an undue hardship on the denser areas of the state and at the same time will require the other areas to bear their fair share of the burden of the revenue requirements of that particular utility. If the passenger is willing to pay any fare, I don't think you have any problem, but that isn't true. That isn't the way it works in designing rate structures and fare structures.

SENATOR CHRISTENSEN: That would be a problem for the Commission to determine.

MR. HOLOBOFF: That is correct.

SENATOR CHRISTENSEN: And would not necessarily include any increase in fares by intrastate carriers between areas served by those intrastate carriers prior to the order requiring the extension of service.

MR. HOLOBOFF: That is correct. I merely suggested that could be one result, but not necessarily. If a particular carrier were able, as a result of service to additional points which were required to be served, increase the overall operations and cut the unit costs down and so on, it might very well work out just the other way.

SENATOR CHRISTENSEN: Don't you find that in connection with telephone, gas, and various kinds of services in which the Commission requires either an extension or continuation, the cost is borne by the customers who are required to be serviced by the order.

MR. HOLOBOFF: That's the objective we seek to achieve, but I must say that it doesn't happen in all instances. There's quite a bit of subsidy involved by one area as opposed to another area.

SENATOR CHRISTENSEN: There doesn't necessarily have to be any subsidy involved.

MR. HOLOBOFF: No. You can make everybody pay their fair share of the costs, but the problem there is that the rate that you come up with is so high that the service won't be patronized.

SENATOR CHRISTENSEN: For a specific example, fares between Eureka and San Francisco and fares between San Francisco and Los Angeles: I think the fare between Eureka and San Francisco is approximately double the intrastate fare between San Francisco and Los Angeles. If the Commission had this statutory jurisdiction and would require a Eureka extension of service by an intrastate carrier the fare would be higher between San Francisco and Eureka than it would be between San Francisco and Los Angeles, even though the distance between Eureka and San Francisco is somewhat shorter.

MR. HOLOBOFF: I think that if you assume the existing volumes of traffic to the extent that the intrastate carrier couldn't absorb the additional cost of operating a San Francisco-Eureka sigment in the fare that would be authorized, and to the extent that you have to see to it that there is a return provided, the chances are that there would be an increase in the overall fare.

DALE FEARN, AIRPORT MANAGER, SAN DIEGO INTERNATIONAL AIRPORT: From the viewpoint of the airport operator, there are three concerns regarding intrastate airline operations. First, does it improve air transportation for the public? Second, is its performance, reliability and integrity equivalent to the interstate carriers? Third, what effect does it have on the airport's facilities and operation. To further expand on these three questions, the National Air Transportation System, under the jurisdiction of CAB, supposedly authorizes routes and services which will not only satisfy public demands, but also maintain air carriers' economic strength. Competitive service is generally withheld until business volume between terminal points can justify it. Since the CAB has no control over intrastate carriers, indiscriminate awards on competitive routes can disrupt the balance of service. We recognize interstate may not provide the high frequency short-haul schedules we want due to its effect on their total route schedule. Intrastate carriers can do an effective job in this area. However, indiscriminate approval of the intrastate

carriers to operate over competitive routes will adversely effect the communities interstate serves.

Specifically, at San Diego, intrastate service certainly is contributing to the growing coastal commuter traffic requirements. However, the interstate carriers need this type of teaffic to fill out the single plane service beyond Los Angeles, and justification of originating service from San Diego. Since regulations prohibit scheduling interline passenger transfers between interstate and intrastate carriers, the longhaul passenger is limited in service to San Diego. As an example, a national convention was scheduled to be held in San Diego with 10,000 people in attendance. We found that 70 percent will travel by air, which means that 7,000 passengers are due to arrive over a two-day period. These people have no real problem in getting as far as Los Angeles, but find the interstate service is limited to approximately 2,000 total daily seats from Los Angeles. An additional 1,000 to 1,200 intrastate seats are available but not open to interline schedules. This, of course, is an over-simplification of the problem, because there are relatively few unoccupied seats available on either type of carrier between Los Angeles and San Diego. It does point up the effect of intrastate carrier operations on a community's interstate service. I am not recommending a state-level CAB to control air transportation economics within our state boundaries. Our free enterprise system eliminates those from an over-competitive market

who do not or cannot provide needed service.

Our next concern is directly related to the losses incurred in passenger relations, public ambassadors, and airport operations revenues resulting from intrastate airline failures. Airline transportation is almost totally controlled by the federal government and promiscuous uncontrolled competition would not be in the public interest. We feel that a passenger should expect equivalent performance, reliability and integrity from any air carrier represented in our public terminals. As a result, in San Diego, our leases with an intrastate carrier not only carry a performance bond, but also sets out minimum service requirements equal to those required in a CAB award.

Our third concern is that of facilities. The major airports in California, as well as in the nation, are continually plagued with congested terminal facilities. Allocation of limited ticketing and operation space must be made of highest and best utilization. It requires almost as much space for a carrier flying one trip per day as for one operating six or eight flights per day. When a new carrier is authorized by the CAB to serve our city, we are pretty well assured that they will be permanent tenants and every effort will be made to provide terminal and operation facilities for them. Such carriers come to a community as invitees, resulting from our solicitation of new routes and services. I personally do not feel that the airport operator has the same

obligation to make space available to intrastate carriers who may come and go or duplicate already existing services. It is my thought that any action by the State of California regarding intrastate air carrier activity would be in the area of public protection. A Certificate of Service should carry with it proper assurance to the public that the company has financial integrity, capable of carrying out its proposals, both organization and facility wise. A hypothetical example might clarify this suggestion.

An applicant appears before the PUC for a certificate to fly a scheduled service between San Diego, Palm Springs and Los Angeles. The application should include a complete financial and business experience report of the company, proof of ownership; firm option to purchase or other availability of adequate flight equipment on a long-term basis and communications from the airport operators of the three cities to be served indicating operational compatability and availability of satisfactory facilities. In addition, proof of compliance with FAA's certificate requirements would be necessary.

GEORGE McSHERRY, ASSISTANT GENERAL MANAGER, LOS ANGELES DEPARTMENT OF AIRPORTS: Francis T. Fox, General Manager of the Los Angeles Department of Airports, has asked me to verbally present certain comments concerning our airport's relationship with intrastate carriers.

At present we have two such carriers in and out of Los Angeles International Airport; they are PSA and Trans-California Airlines, the routes of which you are all familiar. We can state that we have always enjoyed very favorable realtionships with both of these carriers and have had few, if any complaints from their respective passengers or from the general public. Also, our business relationships concerning these carriers, both as to their space requirements and maintenance requirements, ticketing counters, lobby areas, aircraft gate positions, have all been very good. PSA has conducted an efficient operation and has been very cooperative with our operations and administrative personnel. Trans-California, outside of a few initial booking and passenger handling problems, all of which have been resolved, has also had good relationships with our staff and we have received no complaints from their operations for some time. These carriers have both shown a continuous growth throughout the period they have respectively operated at Los Angeles International Airport.

To illustrate, I will cite a few figures: PSA commenced operations in Los Angeles on August 5, 1958 and by January, 1959, they had handled 5,447 passengers in those five months after they commenced operations. At present, less than six years later, they handled 96,273 passengers in June, this last month, a considerable growth.

Trans-California Airlines started operations on December 6, 1962, and for their first full month of operation shows 2,088 passengers. Last month, June, 1964, they had 9.020 passengers, all in less than a year and a half period.

These carriers are making a commuter type of air service available at reasonable fares to a segment of the population that in many instances that would not otherwise be using air transportation. As a whole, the traveling public has benefited as their lead is being followed by some of the major certificated aircrafts who are now providing this type of service over competing routes.

Our general policy is to accept any air carrier, whether it be intrastate, interstate or charter, that meets the following requirements: No. 1, the aircraft and pilots be properly certificated by the federal government, namely the FAA; No. 2, proper certification by the State of California Public Utilities Commission; No. 3, that the carrier provide public liability and property damage insurance to protect the air traveling public; No. 4, to provide adequate services satisfactory to the air traveling public; No. 5, abide by our airport rules and regulations promulgated mainly for reasons of safety and lastly, that they pay their rent.

We are interested in any new services of this type provided from the Los Angeles area to other cities throughout the State where studies of prospective carriers indicate economic feasib-

ility, and further, we will always stand ready and willing to assign airport facilities and cooperate with those persons or companies who indicate their desire to provide public convenience and necessity between Los Angeles and any other destinations in California.

ASSEMBLYMAN McMILLAN: How would this intrastate traffic interfere with San Diego interstate traffic? They don't make reservations on interstate passengers.

MR. FEARN: All of them are scheduled carriers; they cannot schedule interline transfers between interstate and intrastate. Where you have large movements to San Diego on an interstate carrier, they can get as far as Los Angeles because there are plenty of seats between these major hubs, but they can't proceed beyond that point because they can't make a reservation on an intrastate. They can't transfer at Los Angeles to an intrastate in order to proceed on to San Diego. So you have a vacuum that can develop in these areas.

ASSEMBLYMAN DONOVAN: Quite a bit of today's testimony is related to PSA and I would like to know if either Los Angeles or San Diego airports have found any difficulties in your airport operation, as far as PSA is concerned, and whether you think that any further regulation by the State is necessary to this type of airline?

MR. McSHERRY: Speaking for Los Angeles, we have had no problems with PSA. I can't actually recall a passenger complaint of any kind during the five years that I have been there, and insofar as our operating methods and cooperation we have received from them, I don't believe additional regulation is needed with respect to PSA.

MR. FEARN: I feel the same about PSA's operation in San Diego. It is home base for San Diego and they have grown up there and developed the business from that point. We have had no particular problems with them and we find their services compatible with the services of the interstate carriers. They grew up the hard way, so to speak. I think that at the level they are now, certainly they are beyond the point of economic regulation. I think the only position that we should look at is assuring the public that additional intrastate carriers will measure up. In other words, that they will be operating equipment which is needed; that they own the equipment or at least have a long term lease on it, not a system which allows them to go out and lease on a 30-day basis aircraft in which to come in and serve for 30 days to get their feet wet and see what it looks like and then move back out of it if it doesn't work. The public should be protected from this sort of carrier.

ASSEMBLYMAN DONOVAN: You feel that we should do something about setting up specifications for those desiring to come into

this intrastate area?

MR. FEARN: This should be an area to certainly investigate.

October 2, 1964 - 10:00 a.m.

Golden Gate Room
Del Webb's TowneHouse
San Francisco, California

CHAIRMAN COLLIER: During the past 13 months the two transportation committees of the California Legislature have undertaken a major study of the status of California aviation. Today's hearing is the 11th in a series of statewide hearings, and will be devoted to a consideration of the role and functions of the Civil Aeronautics Board.

This is not a "joint committee," such as the legislature has had in the past. Both committees have retained their separate identity and authority. But by mutual agreement between Chairman Tom Carrell and myself, we have been meeting together from time to time in the same places, hearing the same witnesses on this major subject. I believe it is a good way to operate, and it has had many benefits: Less expense to the State and to the various witnesses, an opportunity to exchange views between the Senate and the Assembly, and an opportunity to have members of both houses familiar with major legislation which will be introduced in the 1965 Session of the Legislature.

To date the committees have discussed and heard testimony on such subjects as interstate and intrastate airline operations, trunk and local service carriers, general aviation, third-level

activities, airport management problems, a proposed state airport classification system, service to smaller communities, problems of private airports, and state and federal regulation of the air transportation industry.

On the problem of regulation, we have previously heard from the Federal Aviation Agency and the California Public Utilities Commission regarding their respective spheres of activity and authority. For today's hearing we have asked Mr. Alan Boyd, Chairman of the Civil Aeronautics Board, to help us clarify the Board's role and function in the development of California's air transportation service.

We have asked Mr. Boyd to cover such subjects as the CAB's responsibilities as defined by the Civil Aeronautics Act, the Board's relationship to state regulatory agencies, the Board's policies and procedures regarding service to small communities, the background and development, the Board's "use-it-or-lose-it" policy for subsidized local service carriers, legislative areas for California action to improve the air transportation system, and any other information pertinent to and important for our consideration.

One of our most immediate and pressing problems we are concerned about is maintaining an adequate level of commercial air service to the smaller communities of California - and, in fact, the West. And I am certain that the representatives of the Oregon cities in attendance today share our great concern.

The U. S. Congress has also expressed concern over the threatened discontinuance of air service at more than 100 points, as witnessed by the recent introduction of resolutions in both Houses calling for a thorough review of the needs for airline service with a view to setting a progressive national policy. On behalf of our committees, Tom Carrell and I have written each member of the California Congressional delegation urging their support of these study resolutions. Their response has indeed been gratifying.

This is not a local problem, nor a problem just in California. For example, at our last two committee hearings we heard of United Air Lines' application to terminate service in six of our Central Valley communities and of West Coast Airlines' application to become the exclusive air carrier in three Oregon cities. Both of these applications are now formally before the CAB.

Right at this point I want to suggest a word of caution to the committee members. Since the CAB is quasi-judicial in character, similar to our Public Utilities Commission, we should not expect Mr. Boyd to comment on specific cases now pending before the Board. We do, however - would appreciate Mr. Boyd's testimony to touch on the procedures the Board follows and has followed in cases similar to those now pending. I would also invite Mr. Boyd's comments on the criteria the Board uses to judge such applications to alter or terminate service.

MR. ALAN S. BOYD, CHAIRMAN, CIVIL AERONAUTICS BOARD:

I would like to express the appreciation of the Board for this opportunity to present testimony regarding its role and obligations under the Federal Aviation Act of 1948. As a former chairman of the Civilian Committee to Encourage Aviation in Florida and of the Railroad and Public Utilities Commission of that state, I can understand some of the problems which your state faces in the regulation of air transportation.

In inviting the Board to appear before you, the Chairman of the Senate Fact Finding Committee indicated that you were particularly interested in information on certain specific subjects. These subjects are: (1) the Board's responsibilities as defined by the Act, (2) its relationship to the state regulatory agencies, (3) its policies and procedures regarding service to smaller communities, (4) the background and development of its "use-it-or-lose-it" policy for subsidized local service carriers, (5) legislative areas for California action to improve the air transportation system, (6) areas which the Board believes should be approached with caution by State Legislatures, and (7) other matters considered pertinent and important for your consideration. Consequently, my testimony will relate primarily to these matters.

Responsibilities Under the Federal Aviation Act of 1958:

I feel certain that most of you are familiar with the fact that the principal purpose of the Federal Aviation Act of 1958 is to

provide the public with an air transportation system adequate to the needs of the nation. These needs are not restricted to ones for interstate service, but also encompass the needs for intrastate service as well. The Board's role in this plan for achieving the over-all objective for a transportation system adequate to meet local and national needs is a twofold one: (1) the economic regulation and promotion of air transportation and (2) investigation and analysis of civil aircraft accidents and promotion of air safety.

Since you would appear to be primarily interested in the economic or business activities of the Board rather then in those relating to safety, the latter may be described briefly as including the investigation of accidents and the making of reports as to their probable cause; making recommendation to the Administrator of the Federal Aviation Agency designed to prevent similar accidents; and conducting special studies and investigations to reduce accidents.

Our economic or business activities include, among other things, the granting or denial of permission for the conduct of operations by carriers in interstate, overseas, or foreign air transportation; supervision over the rates and practices of such carriers; and the fixing of rates for the carriage of mail, including, in appropriate cases, subsidy for loss operations. Specifically, in carrying out its economic regulatory responsibilities the Board has jurisdiction over (1) common carrier operations to and from a state; (2) common

carrier operations between points in a state which involve either (a) the continuous movement of persons or property to or from points outside a state, or (b) flight through air space outside a state; and (3) operations within a state involving the transportation of mail. The Board also asserts jurisdiction, which I will subsequently discuss, over various intrastate aspects of the operations of interstate carriers in circumstances in which such operations are incapable of being segregated.

Prior to discussing some of the other subjects in which your Committees have an interest, I believe that it would be interesting to take a look at the air services being provided in California as a result of Board action and policies. As of this moment there are seven so-called domestic trunkline carriers providing services for the transportation of persons, property, and mail to 16 cities in California. These carriers are American, Continental, Delta, National, TWA, United, and Western. Also there are two cargo carriers, Slick and Flying Tiger, which provide service for the transportation of mail and cargo to the principal California cities. Additionally, Pan American and United provide service between California and Hawaii, and Western and Pan American provide service between California and points in Mexico. Pan American, and various foreign carriers, also provide service from both Los Angeles and San Francisco to practically every point in the world. In connection with these various services, there are a number of air freight for-

warders located in California, who provide the State with the benefits of their specialized services in connection with the direct operations of the regular route carriers.

These various services are conducted without benefit of subsidy. They do not tell the entire story of California service. Rather, there also must be taken into account the operation within the state of three subsidized local service carriers and two helicopter carriers. The helicopter carriers are Los Angeles Airways, which receives subsidy, and San Francisco & Oakland Helicopter Airlines, which does not. The local service carriers are Bonanza, Pacific, and West Coast. These three carriers operate to 31 cities and communities within the state. They provide a network of service between the smaller cities, and between them and the larger ones with which there are communities of interest and where connecting services may be obtained from the trunkline carriers. In terms of subsidy, we estimate that for the period 1947-1963 the Board has paid $52,612,00. for services within the State of California by the local service carriers and the helicopter one. During the same period, the total subsidy for helicopter and local air services in the 48 states within the continental limits was $562,255.000. Thus, the California share amounted to approximately 9.4 percent for the total period.

Relationship to State Regulatory Agencies:

Perhaps because of the broad coverage of the Act with respect to both economic and safety matters, the states, in general, have not undertaken to provide regulatory systems for aviation covering these areas. As a result, neither the Board nor the air carriers are ordinarily affected by the practices and procedures of the state regulatory agencies. However, there are certain "intrastate" operations of interstate carriers which the Board believes to be subject to its exclusive regulatory jurisdiction. Moreover, the Board consistently has so informed state legislative committees considering legislation relating to the regulation of air transportation, and courts interpreting the authority of state regulatory agencies.

Among the areas as to which the Board asserts jurisdiction are whether there should be service and what the level of service should be. The Board's belief is that intrastate and interstate operations cannot be separated as a practical matter, and the former may interfere with the latter, unless both are controlled by a single agency. For example, a carrier, such as Pacific, Bonanza, or West Coast, may be expected to transport both interstate and intrastate traffic on the same flight. In such a case, the Board's position is that if it gives permission to the federally-authorized carrier to suspend service between two points within the same state the carrier can also suspend service in relation to the intrastate

traffic. The Board has been upheld in this view by the Supreme Court of Nebraska. This court ruled, in Application of Frontier Airlines, Inc., 175 Nebraska Reports 524, 122 NorthWest 2d 476 (1963), that the State Railway Commission lacked authority to compel an interstate carrier to continue intrastate operations which the Board had authorized it to discontinue, because the Federal authority in this area was paramount and the conflicting directive of the state agency interfered with national policy. For similar reasons the Board has taken the position that it, rather than a state, has control over the volume of service between intrastate points supplied by carriers also offering interstate service. However, in its regulatory actions, the Board takes into account the needs of intrastate as well as interstate traffic.

Thus, in determining whether a carrier should be authorized to conduct operations between cities in a single state, the Board considers the need for a service to accommodate the local traffic as well as the traffic moving to and from points outside the state. Similarly, where the question involved is one of suspension of service, the Board gives full consideration to the needs of the local traffic in determining whether to permit a suspension. By the same token, when the Board has before it the question of whether a carrier is providing an adequate level of service, it considers and gives weight to the local needs. Indeed, as you no doubt are aware, the justification for many of the local service routes

within a particular state rests as much on intrastate needs as on interstate ones.

While the Board believes that it has exclusive jurisdiction over the physical operations conducted by interstate carriers, there are certain regulatory gaps in the Federal Aviation Act in terms of intrastate service. One of these is in the area of regulation of rates for intrastate services which are provided by interstate carriers; the other is the licensing of a carrier to engage only in intrastate service. Thus far, neither of these problems has created any necessity in recent years for seeking amendatory legislation, and the Board hopes that state policies will continue to make this unnecessary. However, serious consequences in relation to the development of an over-all adequate transportation system could result in these areas not specifically covered by the Federal Aviation Act. For example, rates fixed for intrastate services which did not take into account the subsidy position of a particular carrier could have the effect of increasing to a prohibitive level the subsidy bill necessary to maintain the operation.

The more serious problem is that of so-called intrastate operators. In a few states, of which California is one, there is enough intrastate traffic moving between major cities to permit operations by so-called intrastate carriers. These intrastate operations compete with the operations of the interstate carriers, and

the traffic carried by the intrastate carriers is traffic lost to the federally-licensed carriers. Consequently, even though the local beneficiary of the duplicate service may not have to bear the costs of such operations, users of the interstate service in other areas may have to do so in the form of higher commercial rates or increased subsidy. It is no answer to say in this connection that there is room for both the intrastate and the interstate carriers, since the interstate carrier is obligated to service the lean routes as well as the prosperous ones.

As you are all aware, one of the major premises of public utility regulation is the theory of mixing the fat with the lean. In other words, any type of public utility is required to serve the lean routes which are not economically self-supporting in return for the privilege of serving the heavier traffic areas. I think we are all familiar with this problem of "skimming the cream" off any given route system. Additional service in the higher density and better markets very well might leave the interstate carriers with reasonable profits if they too served only these same markets. The fact is, however, that the interstate carriers are not permitted to "skim the cream." Consequently, if a state permits so-called intrastate carriers to operate in competition with federally-certificated ones receiving subsidy, it runs the distinct risk of creating a situation in which the subsidy cost necessary to keep the local service operations in existance may become prohibitive.

Service to Smaller Communities and "Use It or Lose It" Policy:

As stated, the Board's concern and regulatory actions are directed to the establishment of an over-all adequate transportation system in which all communities may obtain the maximum service consistent with sound economics. The Board's policies and procedures regarding service to smaller communities have that objective in mind. They may be briefly described as designed to insure that convenient airline service will be provided between the smaller communities, and between these smaller communities and their major traffic centers to the extent that such service is feasible in the light of the over-all transportation system and the limits of available funds. Since the enactment of legislation in 1955 providing for permanent certification of the local service carriers, the Board has continued its attempts to provide the smaller communities with that service which could be justified on economic grounds, and has taken a number of actions to improve the service.

These actions have included the substitution of local service carriers for trunkline carriers in some of the smaller cities. The Board also has provided periodic review of the needs of the smaller communities for local service, and, as a result, in some instances has granted liberalized operating authority to local service carriers and in other has restricted the operations of the trunkline carriers in relatively short-haul markets. Additionally, the Board has announced standards of traffic which it expects the local

communities to achieve if service is to be continued and also certain minimum service standards which it expects the carriers to observe in relation to their operations to the smaller communities.

1. Transfer of Trunkline Points to Local Service Carriers:

One policy followed by the Board which has enabled the local service carriers to provide better service is that of permitting suspension of trunkline authority at points served by local carriers, or the transfer of trunkline points or route segments to the local carriers in the area.

I should say, parenthetically, Mr. Chairman, that this is a policy of the Board which is not a unanimous policy. The Vice-Chairman of the Board feels strongly that this is an erroneous policy and one that should not be followed; however, the majority of the Board has adopted this as its policy.

There is a dual objective in this policy. One is to permit the trunkline carriers to operate their high-speed, jet aircraft in suitable long-haul markets, and the other is to permit the local carriers to provide better local and inter-line services in the short-haul markets. As you know, the long-haul service necessarily must be geared to the requirements of through operations, and the result is that the smaller communities cannot receive the most convenient schedules necessary to their local transportation needs.

Eliminating the trunkline carrier from the smaller community in effect turns over the business to the local service carrier, and this additional source of income permits the local service carrier to provide better service than it otherwise could.

The Board has taken action of this nature in California which resulted in the transfer of five points from the trunklines to the local service carriers during the period 1950 to date. In all but two instances, the local carriers have provided additional service, and the increase in service has been greater than the decrease. In all instances there has been a significant increase in passenger originations. Thus, in general, the response to local service has been greater than to the trunk service previously offered. This is believed to be due to the actions previously mentioned - that is, that the trunk flights may have been inconveniently timed, and that local carriers have provided better service than they otherwise would have done. In case you are interested in the details of the operations, it may be said that the points transferred from the trunk carriers to the locals have been El Centro, Eureka, Long Beach and Red Bluff.

On occasion, the transfer of points from the trunks to the locals has resulted in controversy. However, the Board does not take action of this nature without giving full opportunity for all interested parties to be heard. Moreover, in taking such action the Board gives full consideration to public interest factors, such

as the needs of the communities as well as those of the over-all transportation system.

2. Review of Needs of Smaller Communities for Air Service:

Following the permanent certification legislation, the Board in 1956 instituted a series of formal area proceedings for the purpose of reviewing local air service needs throughout the country. Twelve formal area proceedings were necessary to accomplish a review for all regions of the country and all of the 13 local service area carriers, with Board decisions being issued in the last two in 1963. Of particular interest to you is the fact that in the Pacific Northwest Local Air Service Case, decided in 1959, Pacific Airlines was extended from Crescent City, California to Portland, Oregon in order to serve the needs of numerous California cities, and West Coast Airlines was extended southward from Klamath Falls, Oregon to Sacramento and San Francisco. Also, in the Pacific Southwest Local Service Case, decided in 1962, Pacific Airlines was given authority to initiate operations into Reno and San Diego for the first time, and Bonanza Airlines was given non-stop authority in the Los Angeles-Las Vegas market.

While the Board does not have a set schedule for instituting area proceedings of this nature, you may be assured that the Board will institute similar proceedings in the future when and if the necessity therefor becomes apparent.

3. The "Use It or Lose It" Policy:

The Board announced an important policy in connection with the authorization of new or additional local air service in 1958 in its first area case decision, Seven States Area Investigation. This policy, known as "use it or lose it," indicated a willingness on the part of the Board to expand local air services to many small size communities with unknown or marginal traffic potentialities, subject to sufficient utilization of the services to warrant the heavy subsidy costs involved. The Board stated that it would periodically review the authorizations granted to the local carriers to provide air services to the many smaller communities, and would determine upon review whether such service was meeting a public need and to what extent the cities were using the air service. The Board announced that as to cities enplaning an average of less than five passengers daily for the 12 months following the initial six months of service, and for route segments whose average passenger load per flight ranged between five and seven passengers, it would, in the absence of unusual or compelling circumstances, institute proceedings looking toward suspension or deletion of the city or segment. The Board also advised the carriers that where a community or segment failed to measure up to these standards, the carrier was free to seek a voluntary suspension of service in advance of a proceeding to terminate the certificate, and that its failure to do so "may

reflect upon the economy and efficiency of management in subsidy mail pay proceedings under Section 406 of the Act." As a part of the "use it or lose it" program, the Board periodically sends letters to the mayors of all cities served by the local carriers informing them of the traffic generated by their city in relation to the tentative traffic standards the Board had previously announced as warranting continued service, and urging civic officials to promote the subsidized services they receive.

Although a number of formal proceedings have been instituted under the "use it or lose it" policy for the purpose of determining whether cities and route segments not meeting minimum traffic standards during trial periods of service should have their authorized services terminated, and a number of points have been dropped, the five-a-day standard has been applied with what we hope is common sense. Consideration has been given to such factors as the quality and quantity of service, isolation, and the needs of national defense and the postal service in determining whether continued air service is justified. It is comforting to note from the quarterly reports to the cities that the number of points not generating the "use it or lose it" traffic standard is steadily decreasing. The report dated September 21, 1964 indicated that for the 12 months ending June 30, 1964 only one - Oakland - of the 36 local service points in California was originating less than five passengers daily for one leg of a service provided for it.

Furthermore, it may be stated that there have been no suspensions at local service points in California since that of the City of Ukiah in 1961. The Board found, after hearing on Ukiah's petition for continuation, that the public convenience and necessity did not require amendment of the carrier's certificate so as to include the city.

Although the Board has not related any traffic standard of the "use it or lose it" policy to a stated quantity or kind of service, it has recently said in considering a formally-filed service complaint of a city which has generated less than five passengers a day - Complaint and Petition of City of Worthington, Minnesota, Docket 14748, Order No. E-20774, April 30, 1964 - that, as a general rule, it favors the provision of two round trips daily as a minimum level of service to small and intermediate cities and towns receiving local airline service.

4. Subsidy Reduction for Local Service Carriers:

The President's Transportation Message to the Congress of April 5, 1962, stated that: "I am asking the Board to develop by June 30, 1963, a step-by-step program, with specific annual targets to assure sharp reductions of operating subsidies. . . , within periods to be established by the Board for each type of service or carrier." In response, the Board, in June of 1963, submitted to the White House a report entitled, "Airline Subsidy Reduction Program," which dealt with subsidy to local service airlines. Following

its submission to the President, the report was referred to a committee of Federal executive departments headed by the Department of Commerce whose review of the report has not yet been completed. Also, the Board was requested by the chairmen of the Senate Committee on Commerce and its Aviation Subcommittee to withhold any implementation of the report until there was an opportunity for them to study the result of the review committee's work yet to be announced.

In developing its subsidy reduction report, the Board kept in mind the major purpose of the local service program in providing air service between small and intermediate towns and their major traffic centers. I would assume that because of the ever-increasing growth of the California communities, any implementation of the report would have little if any effect on the present level of service.

Areas to be Approached with Caution:

From what I have said, it is clear that the Board believes that the area of effective state regulation of aviation is quite limited. With respect to interstate carriers, the only area which appears to be open to a state is that of purely intrastate rates. Thus, there is little room for the effective functioning of a regulatory system for intrastate operations since such a system would provide obvious possibilities for conflict between State and Federal regulatory authorities. Furthermore, not only is there the possibility of conflict, but the fact is that subjecting

carriers to additional regulatory requirements is both burdensome and expensive for them. Indeed, as the Supreme Court of Nebraska pointed out in the Frontier Case, which I referred to earlier, if Nebraska could require service to be continued on routes deleted by the Board, then "every other state may do the same," and "the general plan of regulation adopted by Congress would be wholly nullified." Obviously, chaos would be the result under such circumstances.

If, despite this, you should conclude that a regulatory system for intrastate operations should be established, a certain amount of conflict between state and Federal authorities might be avoided by excluding from the scope of such system activities already committed to the Board. One means of accomplishing this would be to exclude therefrom air carriers holding certificates issued by the Board under Title IV of the Act, and aircraft operated pursuant to economic authority conferred by the Board under Title IV of the Act, or under the supplemental air carrier legislation (Public Law 87-528 of July 10, 1962), or pursuant to contracts for the transportation of mail under the Experimental Air Mail Act of April 15, 1938, as amended. Furthermore, the Board would hope that any intrastate regulatory system would preclude the performance of service by so-called intrastate operators which would inflict substantial competitive impact upon federally-certificated carriers, and particularly the subsidized carriers.

In this connection, I would like to point out that the federal government has a direct and inescapable concern with regard to any regulation of aviation not only in connection with developing an over-all adequate transportation system, but also in terms of the subsidy costs necessary to provide local services within particular states. All of us, state and federal government alike, have an obligation to consider very carefully our actions with respect to rates, new service, and the like, since their consequences will be felt not only by the carriers and the traveling public, but also in terms of subsidy problems.

I hope that my testimony has been helpful in clarifying the functions and responsibilities of the Board, as well as indicating the policies followed by the Board in certain areas. I shall be glad to answer any questions which you may have. I appreciate the opportunity to testify, and I want to assure you, Mr. Chairman and Members of the Committees, that the Board's philosophy is one of cooperation, and that's why we're here today.

CHAIRMAN COLLIER: In reference to intrastate carriers, does the Board feel that since they carry mail the Board perhaps has jurisdiction over a purely intrastate carrier? Is that impression erroneous?

MR. BOYD: That is an impression the Board has, and your impression is certainly not erroneous, although the Board's may be.

There are two basis for federal jurisdiction over intrastate carriers: one is flights outside the boundaries of a state, and the extent of that flight does not have to be substantial at all under the law. If a carrier operates outside of the state boundaries at all, then it comes under federal jurisdiction. The second is if the intrastate carrier is carrying passengers who are considered by law to be interstate passengers. For example, a passenger coming from Las Vegas to Los Angeles and connecting to an intrastate carrier at Los Angeles to go to San Francisco would give the Board jurisdiction. The law draws lines. Sometimes those lines are not as well-defined as they might be, but there is always a line that's got to be drawn somewhere. And I think that you gentlemen on these committees can look at your own situation in California today and be readily aware of the fact that at least in recent years the Civil Aeronautics Board has not attempted to impose its jurisdiction on at least one intrastate carrier operating in California, for any number of reasons. But I would say from a purely personal point of view -- I can't speak for the Board on this -- that the major intrastate carrier is doing an excellent job in the public interest and has created no problem, so far as we know, other than the fact that obviously any time you have another carrier he's going to take some business away.

CHAIRMAN COLLIER: We have had an example of where a purely intrastate carrier was delivering passengers and delivering them entirely in California and the passengers were going beyond the state line into another state. The Board has assumed jurisdiction -- because of this movement that went on.

MR. BOYD: Interstate carriage of the traffic, of the passengers. We have no question about that.

SENATOR STURGEON: You speak of five passengers daily for one leg of the service, and of a policy that favors the provision of two roundtrips daily as a minimum level. Do you feel that five passengers would justify two roundtrips?

MR. BOYD: That is our standard at the moment. We feel that, given a pattern of good service with two roundtrips a day, a community needing air service at all is going to generate more than five passengers a day.

I should tell you a little bit about this five-a-day standard. It is a purely arbitrary standard, established after a great deal of effort which was rather futile because the Board concluded that rather than having what one might call an economically-sound standard or formula which would be complicated due to the methodology involved, it would be better just to adopt a rule-of-thumb which everybody would understand and then the Board would try to crank in a large element of common sense in utilizing the

standard. It's not a scientific standard, it's one we hoped would be understandable. And I think it's fair to say this, that except in a few cases of completely-isolated communities - isolated in the sense that there is no other public transportation readily available - the feeling is that if a community does not generate as many as five passengers a day it's very difficult for the Civil Aeronautics Board to say the public convenience and necessity requires service to and from that community.

SENATOR STURGEON: If you started with the five and then increased this gradually to more than double, then would you feel this would be justification to continue what you state is a minimum level of service?

MR. BOYD: I think for the foreseeable future, certainly, if the community were providing ten a day, there would be no question whatsoever.

SENATOR PITTMAN: The five is just an arbitrary figure, with some common sense, which I can appreciate, but in what instances, in the absence of unusual or compelling circumstances, have you overridden the five-a-day policy?

MR. BOYD: I can't give you any specific communities at the moment, but in Wyoming and in Eastern Oregon we have required service be maintained due to isolation, even though the passenger generation figures were less than five a day. Isolation has been the major factor. One other has been where the Board has been

convinced that the pattern of service provided was not such as would develop the true traffic potential. This is a standard complaint a community makes when the question of renewal or elimination of service comes up, that the service they've had was never any good. Unfortunately that is not always correct. We have spent California's tax money just to see what would happen if the service were put in exactly as the community wanted it put in. It cost a lot of money to do this, and it didn't make one bit of difference in the traffic generation.

So we take this into consideration and occasionally we are convinced that the carrier has not provided (a) the kind of service that it could have, and (b) the service that the community needs. Those are the circumstances that I think of at the moment.

SENATOR PITTMAN: It is evident to me in some of these marginal service areas some pattern of subsidy is what we're kicking around. Has the subsidy reduction been taken up with the new administration?

MR. BOYD: My guess is that the executive agency committee feels that this does not have the priority that other things have.

SENATOR PITTMAN: This is sort of in limbo, then?

MR. BOYD: Yes. The report was released in August of 1963. It is purely and simply a study, prepared at the request of the

President; it has no official status, so far as the Board is concerned, at this time, because of the request that no action be taken on it pending this review by the executive departments. However, I should say that we are striving in every case that comes up to see to it that there is a minimum pattern of two roundtrips to every community. Now, there are few exceptions to that. There are some places which have air service and will never generate five passengers a day; but they don't have any other service, and we provide the subsidy for one roundtrip a day so that there is a means of access and egress. The rules are off there. But in most communities we are striving to see that there are basic patterns of two roundtrips per day.

SENATOR PITTMAN: It appears to me a cutdown in the subsidy program would possibly set back any progress we are trying to make setting up a network at these so-called uneconomic feeder lines.

MR. BOYD: There is no such program in effect, except that we are trying to get two roundtrips a day. It is not an increase in service, it is an increase, and therefore represents an increase in subsidy. We are paying for two roundtrips where it is in effect, there is no question about that.

SENATOR CHRISTENSEN: You referred to the Frontier Case in establishing the paramount authority of the Civil Aeronautics Board to regulate routes to raise the level of service of local

service air carriers engaged in some kind of interstate service. Is there still an area that has been undecided by any case where local jurisdiction could regulate rates, as opposed to routes?

MR. BOYD: There is no question about that. In fact, your Public Utilities Commission regulates the intrastate rates of air carriers in the state of California.

SENATOR CHRISTENSEN: I'm speaking now of interstate local service carriers, such as Pacific Airlines.

MR. BOYD: The PUC regulates the rates of those carriers which operate wholly within the state; they regulate the rates pertaining between San Francisco and Los Angeles.

SENATOR CHRISTENSEN: By whom are Pacific Airlines rates from Eureka to San Francisco established?

MR. BOYD: By the California Public Utilities Commission as to passengers moving solely over that segment. As to passengers who are interstate in character, the Civil Aeronautics Board establishes the rates.

SENATOR CHRISTENSEN: The Public Utilities Commission of this state then has no power to regulate rates from Eureka to San Francisco as part of a trip from Eureka to Chicago?

MR. BOYD: That's right.

SENATOR CHRISTENSEN: Is it the position of the Board that it has the power to fix the same rate for a passenger originating in Medford to Chicago as they would for a passenger originating in Eureka to Chicago?

MR. BOYD: This gets into a very complicated area when it comes to tariff making. As a practical matter, the tariffs are based on mileage, and there is a taper in the tariffs. I would guess if we are talking about an area difference of say 200 miles in a total ticket of say 2500 or 2000 miles, that, given certain circumstances, a fare that was found to be fair and reasonable for 1800 miles could, under other circumstances, be found to be fair and reasonable for 2000 miles. It is a tremendously complicated business and you have the economic requirements of the Board, which are that the fares be established so as to be compensatory. In other words we don't permit a carrier to establish a sort of a loss leader to operate aircraft at below the cost of operating the aircraft. Then you have the effect of competition, which can knock the economics of any of these things in the head, because of our policy that competitive fares may be met.

SENATOR CHRISTENSEN: When you speak of competitive fares, you include trunklines and local service carriers?

MR. BOYD: Surely. But I think you should bear in mind that on a short-haul operation, for 200 miles or less, it's considered

to be practically impossible to have remunerative fare. There is an outside possibility that the Eastern Shuttle between Washington and New York, which is slightly over 200 miles, is able to show a profit; but as a normal proposition, the thing that leads to subsidy is providing short-haul transportation.

SENATOR CHRISTENSEN: Could you comment on the recently-introduced Congressional resolutions?

MR. BOYD: There are several different proposals involved which may be summarized as follows: (1) The Friedel-Beall bills (H.R. 11059 and S. 2844) would amend section 1002 (b) of the Federal Aviation Act to "require the Civil Aeronautics Board to enforce the duty imposed on each carrier to provide adequate service in connection with the transportation authorized by its certificate of public convenience and necessity."

(2) The Snyder (R Ky.) Morton (R-Ky.) bills (H.R. 11552 and S. 2844, amended), introduced at the request of the Louisville Airport Authority, duplicating the Friedel Beall bills above but adding a new section 1002 (j) to the Federal Aviation Act requiring the Board to institute an investigation for additional or improved service on the motion of any state, local, or other public agency.

(3) The Fraser (D-Minn.) Humphrey (D-Minn.) resolutions (H. Res. 860 and S. Res. 363) request the respective Commerce Committees individually to conduct a review of airline service.

(4) H. R. 8824 introduced by Congressman Dole (R-Kansas), to amend the Federal Aviation Act to provide for certification of third level air carriers.

None of these proposals has been acted upon by the committees to which they are referred, and I suspect that most or all of them will be reintroduced when Congress convenes in January of 1965.

Parenthetically, in connection with the first one, the Federal Aviation Act specifically prohibits the Civil Aeronautics Board from questioning the scheduling of air carriers. It also does not permit the Board to get into the matter of the type of equipment used by the carriers.

Additionally, there is a provision in the Federal Aviation Act for communities or for any interested parties to file complaints with the Board alleging inadequate service, and if those complaints are filed they will be heard by the Board. Colonel Dregge of the Board's staff, is spending most of his time trying to fend off formal complaints, for a very simple reason: they result in fixed positions being taken on the one hand by the community and on the other by the carriers, and eliminate the possibility of working out something that is satisfactory. There are absolutely no standards in the Act as to what constitutes adequate service in the public interest. We have had two major

adequacy-of-service cases, both of which were messes; that is the best way I can describe them. After spending untold thousands of dollars of the communities involved, and of the carriers, and of the Board's staff, we wound up with solutions or decisions which were, in my judgment, about as sterile as you could find, because we had nothing to tie into in the way of standards.

SENATOR CHRISTENSEN: Have there been any complaints filed which have not been investigated and which may be the basis for this proposed legislation?

MR. BOYD: No.

ASSEMBLYMAN FORAN: With respect to the problem of the competition between interstate and intrastate carriers, you indicated it is no answer to say that there is room for both intrastate and interstate carriers because the policy is to serve lean as well as fat ones. Where we have California's rather unique geographical characteristics, don't you feel that we can have a situation where an intrastate carrier can develop a greater degree and a greater increase in interstate commerce and, therefore, by creating more fat areas make it even more feasible for the trunklines to continue service too?

MR. BOYD: I would say that anything is possible, and certainly I would tend to agree that California has a rather unique situation.

ASSEMBLYMAN FORAN: In California, there has been an intrastate air carrier that has at least in my opinion created a great deal of interest in intrastate commerce.

MR. BOYD: If I can allay any fears, the Civil Aeronautics Board has no thought of trying to put Pacific Southwest Airlines out of business, or to get our clutches on its operation. But I will also say this, very candidly, that we would look with great discouragement on a proliferation of that type.

ASSEMBLYMAN FORAN: In the state of California?

MR. BOYD: Absolutely.

CHAIRMAN COLLIER: In other words, one of it is enough.

MR. BOYD: No, I'm not saying one is enough. But there are all sizes and shapes and qualities of airline operators, and fugitive airline operators, and we would hope that we would have to deal only with responsible operators.

SENATOR PITTMAN: Let us say you have a purely intrastate operator and there was a proliferation. What method would you use to see that there was no proliferation? That is the point of the entire - how do you do this?

MR. BOYD: That is the FAA's function. It has the safety-operating responsibilities. If the carriers were operating, carrying passengers, in interstate commerce I think that what would happen, if it got to where it was costing in our judgment too much subsidy money to the local service carriers trying to provide a

service in California, we would do one of two things: The first would be that we would go to court and we would have all of our legal talent arrayed, trying to exert jurisdiction, and the State of California would have all of its legal talent arrayed yelling about state's rights and so forth, and we'd be wasting an awful lot of time and effort.

The only other thing that we could do is, if we continue to have the constant pressure which we do to keep the subsidy bill down, would be to say to California, "Gentlemen, it's your baby," and we'll just withdraw subsidy and put it in somewhere else. We either have to have a measure of control, or else pull out of the ballgame.

SENATOR PITTMAN: If the State sets up an agency in order to try to meet the needs of some of these areas, what is the relationship of the FAA and the CAB? When do you act in concert and when do you not act in concert, and is it necessary to have two agencies?

MR. BOYD: We report to the public, and we make recommendations to the FAA. We are not in any way subservient to the FAA, nor is the FAA in any sense subservient to the Board. If I can relate this to your premise of setting up a state agency, I will assure you that the safety operation has been completely turned over to the Federal Aviation Agency and there is nothing any state can do involving the safety of the operation of aircraft or the qualification of pilots, crews or maintainence people.

CHAIRMAN COLLIER: Do you not indirectly have something to do with safety when you point to the financial condition of the company operating so that they can't keep their equipment up and use the right type of equipment?

MR. BOYD: Certainly. I would like to go back and answer this in connection with the question that Senator Pittman raised about when do we act in concert: We don't act in concert on anything, but as a practical matter when the Board finds that a carrier certificated by the Board is financially unfit the FAA will then normally lift or suspend that carrier's operating certificate.

The carrier must have two certificates, or forms of authority; one is an FAA Operating Certificate which certifies that it is safe to operate and the other is a CAB certificate from the economic point of view that permits it to engage in air transportation. And if we find that a carrier is financially unfit to maintain the service, then the FAA will normally conclude to some extent, on the basis of our findings, that it is unfit to continue with its Operating Certificate.

CHAIRMAN COLLIER: If in the opinion of the Board the carrier is unfit financially or unable to extend its service, should there be development of additional passengers in that area, would they give them the exclusive right to serve a survey city? I'm concerned both about Pacific and about West Coast taking over additional

territory. If those areas should grow, what about their ability to finance and to put on new equipment and extend their operations in that area?

MR. BOYD: I don't think there is any problem about the local service carriers obtaining new equipment today.

The Board is a regulatory agency. The Board has major promotional responsibilities; in fact, subsidies, or the use of subsidies, is a part of our promotional responsibility. We would dearly love, as individuals and as a Board, to provide regular scheduled air service to every community with an airport. Nothing would make us happier. However, there are practical limitations to what we are able to do, and they are imposed upon us by the Bureau of the Budget, the President, and the Congress. So we have got to engage in a continuous balancing act, and this is why we try to provide the local areas where we can without a reduction in the quality of the service. And we like to approve the transfer of points which have been served in the past by trunkline carriers, and are more and more being less adequately served due to their long-haul operation and their larger equipment. In those cases where the carrier does the good job that we assume it will, it is able to generate a considerable amount of revenue, which tends to reduce the total amount of subsidy which would otherwise be required.

ASSEMBLYMAN McMILLAN: You mentioned some isolated places in Wyoming where there were less than five passengers a day where they received a subsidy. What kind of a yardstick formula do you use in determining what is an isolated area and how much subsidy they should require? Are there any isolated areas in California receiving the subsidy?

MR. BOYD: I can't answer the part of your question about California, because I just don't know. My impression is that none of the California points, however, were certificated on the basis of isolation. Our criteria involved primarily whether or not there is other public transportation reasonably available to the people of the community to get out if they want to get out or for anybody else to come in if they want to come in. I do not include highways as public transportation; I'm talking about bus service or rail service. And there is a very small number of communities having no substitute service. To this extent the Board has taken it upon itself, and we think rightly, to try to calculate what is in the Nation's interest. Most of the communities we talk about at one time had either rail service or bus service and, due to the actions of another agency, the Interstate Commerce Commission, they are permitted to come out. Some areas still have rail passenger service that will go rumbling through at 3:00 o'clock in the morning; that, in our judgment, is not service to a community. The fact that somebody can, if he wants to, get on a train at 3:00

o'clock in the morning we don't think fits into the community life very well at all.

As to the amount, those areas served because of the isolation factor achieve usually one roundtrip a day, some of them up in the mountains only four trips a week. I can't give you a subsidy figure, because if we decide the service should be authorized, it goes in, without regard to the cost, and the cost is going to depend on the distance flown over the route segment. Now, you have a basic station cost, which I believe runs in the neighborhood of $25,000 a year. It may be possible in some cases to cut that down somewhat. Other costs would depend on what type of equipment is serving the place.

ASSEMBLYMAN WAITE: How much of the subsidy operation is controlled by Congress and how much is handled by Executive action, with regard to who gets how much of what subsidy?

MR. BOYD: As far as the question of who gets how much, that is altogether a matter of Board action. The matter of the total amount of subsidy to be made available during any fiscal year is developed in this way; first, the Board calculates what it will need to pay the carriers for the services anticipated during the ensuing fiscal year; this goes into our budget request; our budget request goes to the Bureau of the Budget, which is a part of the Executive Office of the President of the United States;

the Bureau of the Budget will review all of our requests - salaries and expenses and subsidies - and advises the Board, "We think the subsidy should be $76,000,000 instead of the $83,000,000,000 that you have asked for" - this is purely hypothetical - "We'd like to have you come over and talk to us about it." So we go over, with all of our figures and our calculations, and we explain how we arrived at the figures.

The Bureau of the Budget then reviews the matter again, and we are advised, "Your budget has been approved, with these reductions". At that stage of the game the budget goes to the Congress, with the approval of the President through the Bureau of the Budget. Under the rules, regardless of its feelings, the Board may not ask the Congress for more money than the Bureau of the Budget has approved. And while it is legally possible for the Congress to approve any amount of money, I do not recall any instance where the Congress has approved more money than has been set forth for the Board in the budget.

ASSEMBLYMAN WAITE: Does that appear only as a total sum for subsidies, or does that appear broken down in your recommendations for subsidies to various areas?

MR. BOYD: It appears as total sums. We give a breakdown as to what the subsidy has been by carrier over the past and the

percentages will generally remain about the same, or the proportions, depending on any route awards the Board may make.

ASSEMBLYMAN WAITE: After Congress has acted, to what extent does the distribution of the funds remain in your hands as an instrument of control over local operations?

MR. BOYD: Completely in our hands.

ASSEMBLYMAN WAITE: So your commitment is zero to Congress, in spite of the remarks on the previous subsidies?

MR. BOYD: Yes. Because, in addition to everything else, the route pattern is shifting all the time, both with deletions and additions - primarily additions, I'm happy to say - but it's a shifting process.

SENATOR PITTMAN: What is the present status or policy with regard to control of air taxi service, and charter service?

MR. BOYD: Air taxi involves operation of equipment with a gross weight of less than 12,500 pounds, and the services provided by air taxi operators are handled, so far as the Board is concerned, under a blanket exemption; that is to say, an air taxi operator who complies with the safety requirements of the Federal Aviation Agency may operate if, as and where it desires, with one restriction, having to do with direct competition over routes operated by subsidized helicopters.

Supplemental air carriers are air carriers certificated by the Board to provide charter service. These carriers may operate anywhere within the United States on charter operations. The bulk of their business today is done with the Department of Defense, either through MATS or DTMS, Defense Traffic Management Service.

The Part 45 carriers are private, or contract, carriers. Now unlike the Interstate Commerce Commission, which has jurisdiction over common and contract carriers, the Civil Aeronautics Board has jurisdiction only over common carriers, not over contract carriers. The Part 45 carriers, however, are not entitled to engage in air transportation, the definition of which is common-carried by air in interstate, overseas or foreign commerce. The Part 45 carriers are the ones who engage in intrastate passenger operation, provide firefighting services and haul vegetables out of Mexico and Southern California to the East by the planeload, and things of that nature.

SENATOR PITTMAN: Do you have control over a Part 45 who operates only intrastate?

MR. BOYD: As long as they are intrastate we have no jurisdiction over them, so long as they don't perform air transportation, which means getting into interstate commerce. PSA is a Part 45 operator, so far as I know. To be perfectly precise about it, a Part 45 carrier cannot carry passengers unless it has a certificate

from the FAA saying that "You're safe, and you meet all the requirements", but that does not give it the operating authority.

ASSEMBLYMAN CARRELL: You wouldn't object to a state setting up a subsidy program of their own, would you?

MR. BOYD: I think that we probably would, as a matter of principle, for fear that the state would not be satisfied to subsidize and improve the service the Board was subsidizing, they'd want to set up their own service, which would tend to weaken the already-existing subsidized services by the Federal Government.

ASSEMBLYMAN CARRELL: Suppose the Federal Government abandoned the idea altogether of controlling local service and allow a state that feels that they might be able to develop this community service or this local service a little better than the Federal Government?

MR. BOYD: No. The problem essentially is this: quite rightly and properly you gentlemen are interested in a system of transportation for the State of California. The Civil Aeronautics Board is required to be concerned about a national transportation system which, particularly in the case of air transportation, knows no boundaries. The idea of trying to take a slice out of the orange and say "Well, this is California's" just won't work.

ASSEMBLYMAN CARRELL: You do deal with the Public Utilities Commission to a certain extent in certain regulations on fares and so forth, do you not?

MR. BOYD: But those are things that can be restricted completely within the state. Now we can't restrict, for example, the operations of Pacific Airlines to the State of California as long as we find there is a public need for that service to go into Nevada and into Oregon.

ASSEMBLYMAN CARRELL: But suppose that some airline, such as PSA, doesn't want to go into Oregon, they want to operate within the state, and we might develop a statewide system that would be purely within the state with our own promotional activities.

MR. BOYD: I think that might work out all right, because then there would be no need for Pacific to provide any service in the state, so we would de-certificate Pacific on its California operations. I think that would be the way it would work out. I'm just trying to talk by way of example. I have no idea what would happen, but I'm confident that the Board would not feel that it could continue to provide subsidy for a competing service on any major scale. Now we do have some subsidized competition, but it is something that we just aren't able to avoid on certain segments.

ASSEMBLYMAN CARRELL: You could provide subsidy where it's truly an interstate activity. But if it were only an intrastate activity, why not administer these subsidies through a state agency?

MR. BOYD: Are you thinking in terms, for example, that California has historically gotten roughly 10 percent of the subsidy, that we should turn over 10 percent of the subsidy to the State of California?

ASSEMBLYMAN CARRELL: Not necessarily that. I'm trying to explore a field here that might have some possibilities. Maybe according to need it could be proved, too. In other words, you say to the State of California, "If you will match certain funds," the State can say to you, "We will do this," and the State puts up so much, and goes into the field of promoting its own local air transportation.

MR. BOYD: Our premise is if there is the need, we will provide the service today.

SENATOR STURGEON: You referred to a decision or review by the Supreme Court of Nebraska. Has there been a decision in the Federal Court or any other state supreme court that you know of?

MR. BOYD: No, not on that direct point. That is the only one on suspension that I am familiar with. The Federal Court has held, in the Island Airways Case involving flights between the islands of California, that a carrier could not operate without the Civil Aeronautics Board authority, but it's not really an analogous situation.

CHAIRMAN COLLIER: What prompted the Administration in its transportation message, other than maybe they needed money for other things more than they needed more subsidy to smaller communities for air transportation?

MR. BOYD: I was not privy to the President's thinking on this, but I can tell you that historically the Bureau of the Budget has been consistently opposed to all forms of subsidy. There is also the feeling, I believe, that a lot of this subsidy money is just being wasted and the carriers could provide all the service if they didn't have the subsidy money, if they would just do a good job. I don't share that feeling at all, but some people who are not close to the problem have that feeling.

CHAIRMAN COLLIER: Congress seems to be more favorable towards subsidy for agriculture than air transport. Do you think that there would be any chance of getting Congress to raise its sights so we will have more subsidy money in the pocket to take care of the short-haul?

MR. BOYD: I don't know. For several years, I have been trying to get the Congress to undertake a thorough review of subsidy policy and give the Civil Aeronautics Board some guidelines to go on. We are right in the middle between communities, the Bureau of the Budget and Congress, and the air carriers. I'm

not complaining, but at the same time we have no policies that we can relate to to say "This much and no more," or "Keep going until you are satisfied that everybody has gotten the kind of air service they should have".

CHAIRMAN COLLIER: Do you think it would be possible to sell Congress on the idea of subsidy not for the long trunk haul or the long jet haul but for these smaller cities?

MR. BOYD: I think that if the Congress were to focus on this matter the chances are good that there would be a somewhat more liberal approach than there is today.

ASSEMBLYMAN DONOVAN: I'd like to explore a little bit the area of subsidies in relation to rates charged. Will you clear up a little haze in the area of the relationship of the two to each other?

MR. BOYD: Very realistically we urged the subsidized carriers to charge all the traffic will bear, and the rates on the non-competitive segments of the local service carriers are the highest in the country. Even with that rate, the average subsidy per passenger is $7.07. It's coming down, I'm happy to say. In that connection, we really believe that the subsidies we're talking about are not subsidies to any airlines. The airline is the medium; the subsidies are to the communities receiving the service.

ASSEMBLYMAN DONOVAN: About the relationship to the major traffic routes, the only subsidized areas in California at the present time are basically up the San Joaquin Valley and up into the north areas, the others are apparently self-supporting?

MR. BOYD: We don't work it that way, except in rare instances. Bonanza Airlines, for example, is not entitled to any subsidy on its route between Las Vegas and Los Angeles, but that's the only one I know of in this area, except for a recent decision involving West Coast Airlines' non-stop Spokane-Seattle service. In those cases the carriers have made representations that they can operate the route without subsidy. But the subsidy has to go to the whole operation of the carrier.

ASSEMBLYMAN DONOVAN: Then you are relating it to the entire system of the carrier rather than particular segments that do not produce traffic and revenue?

MR. BOYD: Yes. We are trying and we hope the carriers are trying to generate all the commercial revenue they can on every segment and, hopefully, some of their segments will be subsidy free and that will just reduce the deficit that has to be made up then.

ASSEMBLYMAN DONOVAN: Then the subsidy program envisions that the major interstate carriers will try to make up funds from their major traffic areas to offset some of the revenues lost on marginal segments.

MR. BOYD: That's the theory.

ASSEMBLYMAN DONOVAN: Do I understand from your presentation that you are advocating some sort of control, either by the State or the Federal Government, over California's major intrastate carrier?

MR. BOYD: We feel that there should not be a situation where anybody who could rent an airplane could go into business. The concept of free and open competition has never worked with any mode of common carriage transportation, and we don't think it will work with aviation.

ASSEMBLYMAN DONOVAN: We have precisely that situation today: company could go out and effectively rent airplanes and commence an intrastate operation in California.

MR. BOYD: That's right.

CHAIRMAN COLLIER: I think that Mr. Boyd has been unusually kind to us and helpful and a very excellent witness. He has answered questions and he has been frank about it, and we appreciate that. On behalf of the committees, I want to thank you and Col. Dregge for coming to California and being of assistance to us. I feel we have a better understanding of your problems.

I hope that we can make some arrangements so that some of us can come back and visit the Civil Aeronautics Board to see your procedures, operations and the difficulties that you have to meet.

I for one hope that Congress raises its sights on subsidies, that some of us out in the hinterland will continue to have good air service in the future.

MR. BOYD: Thank you. I would like again to express the Board's appreciation of having the opportunity to appear before you. We are well aware of the fact that you have problems that require serious consideration and our whole approach is one of wanting to be cooperative with you. I would like to invite you and members of your committee and staff to come visit us in Washington. We don't think we know all the answers by any means. We do have a reservoir of experience and we would like to be able to sit down and show you what we think are our problems and how we approach them and how we think we're trying to look out after the interests of the individual communities, regardless of what state they may be in. We are certainly open to suggestions to help us do a better job at any time.

Whereupon the Chairman adjourned the hearing.